1938
24th SESSION
III

REPORT III

International Labour Conference

TWENTY-FOURTH SESSION
GENEVA, 1938

Recruiting, Placing and Conditions of Labour (Equality of Treatment) of Migrant Workers

Third Item on the Agenda

GENEVA
INTERNATIONAL LABOUR OFFICE
1938

INTERNATIONAL LABOUR OFFICE

GENEVA, SWITZERLAND

BRANCH OFFICES

China : Mr. HAI-FONG CHENG, 754 Bubbling Well Road, Shanghai. ("Interlab, Shanghai" ; *Tel.* 30.251.)

France : . . . . . , 205 Boulevard St-Germain, Paris VII^e. ("Interlab, Paris" ; *Tel.* Littré 92.02.)

Great Britain : Mr. M. R. K. BURGE, 12 Victoria Street, London, S.W.1. ("Interlab, Sowest, London" ; *Tel.* Whitehall 1437.)

India : Mr. P. P. PILLAI, International Labour Office (Indian Branch), New Delhi. ("Interlab, New Delhi" ; *Tel.* 3191.)

Italy : Mr. UGO RUFFOLO, Villa Aldobrandini, Via Panisperna 28, Rome. ("Interlab, Rome" ; *Tel.* 61.498.)

Japan : Mr. I. AYUSAWA, Shisei Kaikan Building, Hibiya Park, Kojimachiku, Tokyo. ("Interlab, Tokyo" ; *Tel.* Ginza 1580.)

United States : Mr. L. MAGNUSSON, 734 Jackson Place, Washington, D.C. ("Interlab, Washington" ; *Tel.* District 8736.)

NATIONAL CORRESPONDENTS

Argentine Republic : Mr. ALEJANDRO UNSAIN, Av. Pte. Roque Saenz Peña 671 (8° piso B.), Buenos Aires. Address correspondence to : Calle Berutti 3820, Buenos Aires. ("Interlab, Buenos Aires" ; *Tel.* U.T. 35, Libertad 7257.)

Austria : Mr. FRANZ WLCEK, Helferstorferstrasse 6, Vienna I. (*Tel.* R. 28.500.)

Belgium : Mr. M. GOTTSCHALK, Institut de Sociologie Solvay, Park Léopold, Brussels. ("Interlab, Brussels" ; *Tel.* 33.74.86.)

Brazil : Mr. A. BANDEIRA DE MELLO, Edificio do Castello, Salle 312, Avenue Nilo Peçanha 151, Rio de Janeiro. ("Interlab, Rio" ; *Tel.* 43-0455.)

Chile : Mr. M. POBLETE TRONCOSO, Casilla 2811, Santiago. ("Interlab, Santiago".)

Cuba : Mr. JOSÉ ENRIQUE DE SANDOVAL, Secretaria del Trabajo, Havana. ("Interlab, Havana".)

Czechoslovakia : Mr. OTAKAR SULIK, Pankrac 853, Prague XIV. ("Sulik, 853 Pankrac, Prague" ; *Tel.* 575-82.)

Estonia : Mr. A. GUSTAVSON, Raua 61, Tallinn. ("Gustavson, Raua 61, Tallinn" ; *Tel.* 301-48.)

Germany : Mr. WILHELM CLAUSSEN, Dahlmannstrasse 28, Berlin-Charlottenburg 4. ("Claussen, 96 42 74, Berlin" ; *Tel.* 96-42-74.)

Hungary : Mr. GEZA PAP, Margit körut 45, Budapest II. (*Tel.* 1-530-17.)

Latvia : Mr. KARLIS SERŽANS, Skolas iela 30, Riga. ("Sabmin, Riga, Latvia".)

Lithuania : Mr. K. STRIMAITIS, Kalniečių 4-a, Kaunas. (*Tel.* 2-48-56.)

Mexico : Mr. FEDERICO BACH, Apartado 292, Mexico, D.F. ("Interlab, Mexico" ; *Tel.* Ericsson 4-75-91.)

Poland : M^me FRANÇOIS SOKAL, Flory 1/11, Warsaw. ("Interlab, Warsaw" ; *Tel.* 8-15-65.)

Rumania : Mr. G. VLADESCO RACOASSA, Strada Maria Rosetti 63, Bucureşti III. (*Tel.* 231-95.)

Spain : _____, Apartado de Correos 3032, Madrid. ("Interlab, Madrid" ; *Tel.* 30.848.)

Uruguay : Mr. ERNESTO KUHN TALAY, Colon 1476, Montevideo.

Venezuela : Mr. RAFAEL CALDERA, Sur 14, 56-2, Caracas. ("Caldera, Caracas".)

Yugoslavia : Mr. L. STEINITZ, Poštanski Pregradak 561, Belgrade. ("Interlab, Belgrade".)

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CORRIGENDA

PAGE 7, § 2, paragraph 2, lines 9-11. Omit the sentence beginning "In several countries" and ending "a semi-official status".

PAGE 9, paragraphs 4 and 5. Omit the whole of these and substitute the following:

"In Great Britain the Oversea Settlement Department of the Dominions Office is responsible for the giving of advice to intending emigrants individually by means of personal interviews or by correspondence.

"In addition, public employment exchanges notify intending emigrants of available opportunities for employment abroad. Representatives in Great Britain of the Dominions and Colonies also provide intending emigrants with information."

PAGE 34, third paragraph. Substitute the following:

"In Great Britain, where there are no recruiting agents proper, the Oversea Settlement Department of the Dominions Office is responsible for giving advice to intending migrants by personal interview or by correspondence. Oversea vacancies notified to the Public Employment Exchanges may not be filled until authority has been given from the headquarters of the Ministry of Labour."

PAGE 86, line 27. Delete the word "Palestine".

PAGE 137, § 3, line 5. Substitute the word "dependencies" for the word "possessions".

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Imp. de la Tribune de Genève

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INTRODUCTION

At its Seventy-eighth Session, on 6 February 1937, the Governing Body of the International Labour Office decided to place on the agenda of the 1938 Session of the International Labour Conference the question of "the recruiting, placing and conditions of labour (equality of treatment) of migrant workers".

This decision does not involve submitting new questions to the International Labour Conference; on the contrary it is merely one stage in the prolonged study and patient effort of many years. A historical survey of these studies and efforts would certainly be instructive but it would lead us too far; it must suffice in this introduction to refer very briefly to the three main phases.

The first phase, which may be said to have been inaugurated by the Constitution of the Organisation (in which express mention is made not only of the protection of the interests of workers employed in countries other than their own and the necessity for equitable economic treatment for all workers without distinction of nationality but also of "the regulation of the labour supply"), was continued in the discussions of the First Session of the International Labour Conference. At Washington in 1919 the Conference adopted texts which are of great importance from the point of view of the migration of workers, and more particularly Point II of Recommendation No. 1:

> The general Conference recommends to the Members of the International Labour Organisation that the recruiting of bodies of workers in one country with a view to their employment in another country should be permitted only by mutual agreement between the countries concerned and after consultation with employers and workers in each country in the industry concerned.

With regard to equality of treatment, special mention must be made, among the texts adopted at that Session, of Article 3 of Convention No. 2 (Equality of Treatment with

regard to Unemployment Insurance) and Recommendation No. 2 (Reciprocity of Treatment of Foreign Workers). This phase led up to the resolutions of the International Emigration Commission (Geneva, August 1921), among which it is essential to quote here at least those directly dealing with the collective recruiting (and placing) of workers in foreign countries :

14. That if and when bilateral Conventions for the recruitment of bodies of workers are made between Members in pursuance of the Recommendation of the Washington Conference, or where collective recruiting takes place in another country, the following principles should be borne in mind :

1. Inspection and supervision by the competent authorities of the two States concerned, each on its own territory.
2. Recruiting operations should be carried on exclusively through the medium of offices or agents authorised by the competent authorities of the States.
3. Consultation of employers' and workers' organisations concerned in case of recruiting carried out as a result of conventions between Governments.
4. To see that the recruiting does not disturb the labour markets of the two countries ; particularly that the wages should not be less than those paid in the country of immigration, and that workers recruited should not arrive on the occasion of strikes or lock-outs.
5. Contracts signed in the country of emigration shall be fully enforceable in the country of immigration, except in the case of such clauses as are contrary to public order.

15. If it appears that workers or employees (men or women) are recruited for another country in order to replace workers or employees of that country who are involved in a strike or lock-out, the undertaking which has carried out this recruiting, or for the profit of which the recruiting has been carried out, should repay to the workers and employees thus recruited all their expenses, including the expenses of the journey in both directions.

Once this quite general but at the same time quite concrete programme had been drawn up, the next phase of the activity of the International Labour Organisation was one of scientific research and observation. At the same time, however, the Conference adopted in 1922 a Recommendation concerning migration statistics (No. 19) and in 1926 a Convention (No. 21) and a Recommendation (No. 26) concerning the inspection of emigrants on board ship, while at the same time the general principles which the Office had helped to bring into the foreground were borne in mind by many States in their negotiations concerning the migration of workers. But it was mainly at the Inter-Governmental Emigra-

tion and Immigration Conferences (at Rome in May 1924 and at Havana in April 1928) that the problem of migration in its widest aspects was dealt with during this period. At the same time the hope was cherished that the World Economic Conference (Geneva, 1927) would deal with the question of migration in general, and subsequently that the Conference on the Treatment of Foreigners held in Paris in November 1929 would find a solution for the problem of the treatment of foreigners. None of these efforts fulfilled the hopes they had raised, but they served as lessons which the International Labour Office could study and use with profit in its further work.

The International Labour Organisation, for its part, never ceased to take an active interest in the dual problem of the migration of workers and the treatment of foreign workers. In pursuance of the work of the International Emigration Commission in August 1921, the Governing Body had before it in 1922 a proposal to place on the agenda of the Conference the question of the means of securing equality of treatment, as far as possible, between immigrant and national workers from the social and economic points of view. The decision of the Governing Body to define clearly the scope of the question before submitting it to the Conference led to the adoption by the latter of Convention No. 19 (concerning equality of treatment for national and foreign workers as regards workmen's compensation for accidents). In addition, at its 1922 Session, the International Labour Conference adopted a resolution submitted by Mr. Gosling, British Workers' Delegate, drawing attention to the question of agreements between States for the supervision of emigration and immigration and a further resolution concerning the protection of women and children immigrants. At its Eight Session (1926) the Conference adopted a resolution by Mr. Gawronski, Polish Government Delegate, requesting the Office to undertake a study of the principles and the systems of protection, assistance and inspection of emigrants in force in the various countries, and a resolution concerning unemployment submitted by Mr. Schürch, Swiss Workers' Delegate, referring in particular to the measures to be taken by Governments to regulate the placing of foreign workers and to eliminate in this field employment agencies working for profits. In October 1926, Mr. Arthur Fontaine, French Government Delegate, sub-

mitted to the Governing Body a proposal to place on the agenda of the 1928 Session of the Conference the question of equality of treatment for national and foreign workers as regards wages and working conditions. In June 1927 a communication from the Vienna Chamber of Labour and the Austrian Trade Union Committee drew the attention of the Governing Body to the question of the contracts of migrant workers.

The information analysed by the Office in important publications[1] and the various activities enumerated above had helped to pave the way for further progress by the Organisation, and just on the eve of the world depression the third stage of its activity in this field may be said to have opened.

At its Twelfth Session (1929) the Conference, having before it a report by the Office on *Unemployment: Some International Aspects, 1920-1928*, decided, at the suggestion of its Unemployment Committee, to " refer to the Governing Body and its Permanent Migration Committee that part of the Report of the Office dealing with the international migration of workers, and particularly to draw their attention to the problem of the recruiting and placing of foreign workers which was dealt with by the Washington Conference in its Recommendation concerning unemployment but which ought to be re-examined more thoroughly at an early Session of the Conference ". At the same time it adopted a resolution by Mr. Tchou, Chinese Government Delegate, inviting the Governing Body to undertake an enquiry into the application of Recommendation No. 1 concerning unemployment, with special reference to the recruiting of workers from one country with a view to their employment in another.

As a result of these decisions and the reconstitution in March 1929 of the Permanent Migration Committee, the first meeting of the latter in Paris on 2 May 1930 was devoted to a preliminary consideration of the question of the recruiting and placing of foreign workers. The Committee approved

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[1] See, in particular, in the series of Studies and Reports the three volumes on *Migration Laws and Treaties* (1928-1929) and the statistical reports on *Migration Movements*; and among periodical publications *Monthly Record of Migration*, etc.

the plan submitted by the Office for a report on this subject. At its second meeting (25 January 1934) a complete preliminary report was submitted by the Office, and the Committee, under the chairmanship of Mr. G. de Michelis, unanimously passed a resolution expressing the view " that it is desirable : (1) to adopt further Conventions concerning the equality of treatment of foreign and national workers in the various aspects of labour protection ; (2) to ask the Governing Body of the International Labour Office to place the question of the recruiting and placing of migrant workers on the agenda of the International Labour Conference ".

From that time onwards the discussions centred round the question of the consideration of the problem by the International Labour Conference, the exact scope of the subject and the appropriate time for dealing with it.

The world economic depression, which paralysed migration currents or turned them from their usual course, led to an increase in the restrictions on the departure and admission of migrant workers and brought into the foreground other more pressing social problems. At first the depression seemed to retard further progress in connection with migration, but it could not stop it. On the contrary, the very persistence of the depression brought home more clearly to immigration and emigration countries alike the importance of the problem of workers' migration. In April 1933 the representative of the Italian Government, Mr. G. de Michelis, proposed to the Governing Body to refer to the Migration Committee and subsequently to place on the agenda of the Conference, along with other questions, those of the equality of treatment of national and foreign workers as regards wages and working conditions, the protection of foreign workers and of migrant women and children and the question of bilateral agreements for the supervision of emigration and immigration. Shortly afterwards, in June 1933, the Conference adopted a resolution submitted by Messrs. Chi Yung Hsiao and Scié Ton-Fa, Chinese Government Delegates, requesting that the question of equality of treatment should be placed on the agenda of an early Session ; the resolution stated that " owing to the financial and economic crisis from which the whole world has long been suffering, workers resident in foreign countries have been treated in a manner contrary to the principles of equality and justice, that a large number of them have been forced

to leave the country where they were employed and have thus become completely destitute ".

In January 1936 the Conference of the American States which are Members of the International Labour Organisation, held at Santiago, adopted a detailed resolution emphasising the importance of migration questions for these States. In particular the Conference asked that the question of migration should be placed on the agenda of the International Labour Conference " with a view to the adoption of a Draft Convention or Recommendation which shall contain, *inter alia*, fundamental principles for the conclusion of bilateral or multilateral treaties between European and American countries concerning migration, colonisation and labour "[1].

The movement of opinion thus started was bound to produce results. A few months later, in June 1936, the International Labour Conference, after considering a report submitted to it[2], adopted a resolution dealing more particularly with the problems arising out of the movement of wage earners from the point of view of recruiting, placing and conditions of labour, with special reference to the problem of equality of treatment. In this resolution the Conference expressed the hope " that the Governing Body will take this subject into consideration with a view to placing it on the agenda of the International Labour Conference as soon as possible, that is to say, in 1938, if possible ".

The decision of the Governing Body on 6 February 1937, which was mentioned at the beginning of this introduction, was intended to give effect to that resolution.

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The general terms in which this question is at present before the world were already outlined in the report mentioned above and in the memorandum on migration problems submitted by the International Labour Office to the last Assem-

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[1] It will be remembered that the part of this resolution dealing with the important problem of settlement was examined separately and studied by the Office and the Migration Committee ; it is being submitted to a Conference of Experts convened by the Governing Body to meet on 28 February 1938. (Cf. INTERNATIONAL LABOUR OFFICE : *Technical and Financial International Co-operation with regard to Migration for Settlement*, Geneva, 1937.

[2] INTERNATIONAL LABOUR OFFICE : *The Migration of Workers, Recruitment, Placing and Conditions of Labour*, Geneva, 1936.

bly of the League of Nations [1], and it is not necessary to mention them again here.

Since the International Labour Organisation has been dealing with the migration of workers — that is, since it came into being — a continuous interest has been shown in these movements, as is clearly evidenced by the numerous resolutions summarised above. Moreover, migration currents, after passing through various vicissitudes and being brought almost to a complete standstill in recent years, have for some time back shown a tendency to revive in many cases. At the present time, not only are there signs that public opinion wishes by wise precautions to avoid the risk of being caught unawares by a possible revival of migration movements among workers, but it is also being more and more widely recognised that States cannot continue to remain indifferent to such movements, the success or failure of which is an extremely important factor in the harmony of international political and economic relationships. It would be impossible to deal here fully with the importance of migration as a condition of and a factor in international and social peace; it must suffice to emphasise the importance of the problem before the Conference at the present moment and the consequent desirability of studying the experience gained in this field by the countries directly concerned, with a view to drawing conclusions which can be generally applied internationally.

In this connection it may perhaps be well to define briefly the scope of the question dealt with in this report and submitted to the International Labour Conference with a view to the possible adoption of international regulations.

It should be remembered in the first place that certain aspects of the problem as a whole have already been, or are about to be, treated separately. The present report leaves entirely aside all questions concerning indigenous workers and seamen, as these are being dealt with separately. Similarly, no reference is made in the report to workers, such as frontier workers, who are not "migrants" in the strict sense of the term, nor to such migrants as student employees, whose position is entirely different from that of ordinary workers, there being in most countries special regulations or agreements for the two groups.

[1] League of Nations: *Migration Problems*, Official Document A.22. 1937.II.B., Geneva, 9 September 1937.

Apart from these exceptions, the conclusions reached would seem to be applicable to all migrant workers in the strict sense of the term, irrespective of the occupation or industry to which they belong (and, incidentally, to the members of their families). It would be unduly restricting the scope and importance of the phenomenon of migration if only the movements of wage earners and manual workers were considered.[1]

* * *

Few regulations are so full of detail, so variable and so subject to sudden and repeated amendments as those concerning migration, and, what is more serious, few contain so many unpublished provisions or form the subject of so many confidential circulars. The Office therefore realises that the present report does not contain a really complete survey or an exhaustive analysis of the regulations at present in force in every country; it was thought preferable in this study of the law and practice to bring out more especially the methods employed and the solutions adopted in the most typical cases, in which really valuable experience had been gained. It was even found necessary in not a few cases to refer to certain provisions of agreements, Acts, regulations or contracts which have been applied extensively or over a long period, although they may now have been repealed or have been suspended during the depression, so that it is uncertain to what extent they will be applied in future. Such examples were thought indispensable for an understanding of the situation as it existed for long years and as it will arise again wherever the migration of workers maintains its present revival or becomes more active.

After a preliminary chapter dealing with the supply of information to migrants, the report studies in a lengthy chapter the various operations connected with the recruiting and placing of migrant workers in the narrower sense:

[1] It is necessary to bear in mind in this connection not only the migration of settlers, which, as was mentioned above, is being dealt with in a special enquiry by the International Labour Office, but also the special importance of migration for professional workers and salaried employees. With regard to the resolutions adopted on this subject by the Advisory Committee on Professional Workers and the Advisory Committee on Salaried Employees, the reader is referred to an earlier report (*The Migration of Workers*, pp. 9-10, Geneva, 1936).

applications for labour and the activities of recruiting and placing agents; the regulation and supervision of these operations; the selection of workers and their transport to their destination. The third chapter deals with the conditions of employment of migrant workers, with special reference to equality of treatment, contracts of employment and measures to ensure the execution of such contracts. The fourth chapter is devoted to the question of repatriation in its different aspects — a question that is extremely important from every point of view and especially from that of the protection of migrant workers. The fifth chapter contains a summary of the information available concerning bilateral agreements, which are very numerous and very instructive on all matters concerning the migration of workers.

At the end of each chapter a brief reference is made to the most important resolutions adopted by conferences and international bodies on these subjects. The report ends with detailed conclusions serving as an introduction to a draft list of points on which the Conference may instruct the International Labour Office to consult Governments with a view to a second discussion of the question at the 1939 Session.

CHAPTER I

SUPPLY OF INFORMATION TO MIGRANTS

The supply of information to migrants, both before their departure and on their arrival in their country of destination, is an important question which in actual practice raises many difficulties. Any recruiting of workers involving their leaving home and settling down in a foreign country presupposes their possession of a certain minimum of information concerning such matters as the conditions of emigration and immigration and of the voyage, of employment in the new country, and of living generally in the district where they will reside. Yet while there is now general agreement on the necessity of supplying information to intending migrants, the actual methods employed vary widely.

The information may be supplied officially by public bodies or it may be given by private societies or even by relatives and friends, its value varying according to the source available to the informant and to the motives for which it is given, such, for example, as assistance to workers desiring to emigrate or to employers seeking foreign labour, regularisation of the labour market, expansion of the passenger traffic of a particular line or company, etc.

The history of the great migration movements shows that in the past the supply of information to intending migrants was open to much abuse on the part of middlemen working for profit such as recruiting, emigration and transport agents. Since the profits made out of emigration were generally in direct proportion to the number of emigrants, it was to the advantage of the middlemen to increase the volume of emigrants by every possible means and they were helped by the fact that propaganda in favour of emigration to certain countries was the more successful in that it was addressed to people whose conditions of life were hard and who were therefore willing to seek their fortunes elsewhere. Most emigration countries have at some time or another experienced

a wave of emigration created and sustained by commercial agents, while immigration countries have been subject to an unregulated influx of foreign workers, many of whom migrated on the strength of false information and had to be repatriated.

Governments, especially those of emigration countries, therefore took measures to exercise some degree of check and control over the information distributed to migrants. These measures fall into two classes, negative and positive. To the first class belongs prevention of the dissemination of false or misleading statements by agencies or other bodies having an interest in artificially expanding or contracting emigration either generally or to or from specific countries ; to the second class belong measures for meeting the intending emigrants' legitimate need for information and seeing that the information furnished is true and is given adequate publicity. This double task now forms one of the most prominent features of the migration policies of the various countries.

Up to the present the organisation of the supply of information to migrants has been mainly a national measure, each country endeavouring to procure by its own efforts the information intended for the use of its migrants. It would seem, however, that an international exchange of information would add to the amount of assistance which could be given to migrants by this means and would make it available at an earlier date, and would in consequence considerably increase the usefulness of the information services both to the countries and to the persons concerned. Such an exchange could operate through a clearing house involving the centralisation and distribution of information by an international institution or by a direct exchange between the countries interested.

A step in this direction has been taken by the adoption of a Recommendation by the International Labour Conference in 1922 proposing that the information in question should be centralised in the International Labour Office. Article I of the Recommendation adopted by the Conference reads :

> " The General Conference recommends that each Member of the International Labour Organisation should communicate to the International Labour Office all information available concerning emigration, immigration, repatriation, transit of emigrants on outward and return journeys and the measures taken or contemplated in connection with these questions.

" This information should be communicated so far as possible every three months and within three months of the end of the period to which it refers." [1]

As an example of the direct exchange of information between countries, mention may be made of the Agreements concluded between Argentina and the Netherlands, Switzerland and Denmark which are intended to facilitate the settlement of Dutch, Swiss and Danish agricultural workers in Argentina. Although these Agreements relate more especially to the migration of settlers and not to that of the migrant workers with whom this report is concerned, they are nevertheless interesting as showing the possibilities opened up by bilateral agreements.

Under the terms of the Agreement with the Netherlands, the Argentine Government undertakes to keep the Netherlands Government regularly informed as to the following matters : land available for settlement ; facilities granted by settlement societies, banks and other financial institutions whether existing or prospective ; the system of agricultural credit, co-operation, etc. ; legal conditions of purchase, concession and working of public and private lands suitable for settlement and at the disposal of the banks or settlement societies ; agricultural yield and methods ; development works undertaken or projected ; regulations concerning admission of immigrants ; the situation of the employment market ; fluctuations in the cost of living and any other details that may be useful.

The Government of the Netherlands, for its part, undertakes to keep the Argentine Government regularly informed of the following : the number of persons or families engaged in agriculture who are prepared to emigrate to Argentina as settlers, whether individually or in groups ; the resources at their disposal for settlement ; any legal or administrative conditions laid down by the Netherlands administration ; conditions of transport and any other measures which are or may be taken by the Netherlands Government to facilitate emigration.

The Agreement provides for the appointment of a mixed committee of six members, three for each country, which shall

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[1] It should be pointed out that the information at present furnished to the International Labour Office in conformity with this Recommendation is purely statistical.

sit in Buenos Aires, one of whose functions will be to provide for the regular exchange of the information referred to above.

The Agreements concluded by Argentina with Switzerland and Denmark are almost identical with that concluded with the Netherlands.

§ 1. — Prevention of Spreading of False Information

One of the main objects of the regulation of the activities of emigration agencies with regard to the supply of information is to prevent the dissemination of false information concerning possibilities and conditions of emigration. It not infrequently happens that, on the strength of false or misleading statements, would-be emigrants make costly preparations for their departure and even sell up their homes, and only when it is too late learn that emigration permits are no longer delivered for their particular country of destination or that they themselves do not fulfil the conditions of admission. Most post-war legislation therefore forbids the supply of information to emigrants for profit and there is an increasing tendency on the part of emigration countries to prohibit all propaganda. The information which, on the other hand, private agencies may furnish to migrants is subject to strict control.

Prohibition of Misleading Propaganda

Examples of legislative or administrative provisions relating to the prevention of false information and the prohibition of propaganda to encourage emigration may be found in the following countries :

In *Austria*, according to an Act of 21 July 1925, the Chancellery of the Austrian Confederation is required to afford protection to immigrants by preventing illegal propaganda respecting emigration and by prosecuting shipping companies and their agents guilty of abuses.

In *Canada* under the Immigration Act of 1910-1924 every person who causes the publication or circulation by advertisement or otherwise in a country outside Canada of false representations as to the opportunities for employment in Canada, or as to the state of the labour market in Canada, in order to encourage or to deter the immigration into Canada of persons outside, shall be guilty of an offence and liable to a fine or to imprisonment.

In *Germany* a Decree of 14 February 1924 prohibited the giving of information or advice on conditions of life, work or settlement, etc., in foreign countries in return for a fee.

In *Lithuania* a law which was promulgated in October 1929 with a view to protecting emigrants contains provisions prohibiting commercial propaganda intended to stimulate emigration.

In the *Netherlands* an Act of 31 December 1936 prohibits all propaganda in favour of emigration by unauthorised persons and empowers the police authorities to remove or confiscate any poster, circular, or other publication which constitutes such propaganda.

In *Poland* according to a Decree of 11 October 1927 all propaganda, whether written or by word of mouth, intended to stimulate emigration is forbidden.

In *Switzerland* an Act of 22 March 1888 and the regulations governing its administration prohibit all persons not holding a permit from the public authorities to publish any information designed to encourage emigration and restrict all direct attempts to induce persons to emigrate as well as all propaganda likely to lead the emigrant astray. New regulations dated 5 February 1937 extend these measures still further by prohibiting "public announcements, and manifestations and demonstrations of all kinds, such as press notices, conferences, collections, and cinema performances which are intended to induce persons to emigrate to oversea countries or to lead astray persons desiring to emigrate to such countries. Any such act is considered a punishable offence even if it is committed without fraudulent intent".

In *Yugoslavia* an Act of 30 December 1931 prohibits the recruiting of emigrants, especially by means of false information.

Control of Information furnished by Private Agencies

In addition to prohibiting propaganda to encourage emigration, measures have been taken by the Governments of both the countries of emigration and of immigration to ensure as far as possible the reliability of the information furnished by the issue of permits to private businesses and agencies desiring to advertise or supply information, and by the exercise of a certain control over the information they are allowed to furnish. In many countries the contents of all material that such agencies distribute, such as prospectuses, posters, pamphlets, advertisements, etc., are supervised by the authorities and in many cases can only be distributed on request. In other countries emigration companies and transport agencies may only publish certain specified information such as the sailing dates and routes of steamers, the cost of tickets, the names of ships, the ports of embarkation, etc. In this connection may be mentioned the measures taken to control advertisements of offers of employment appearing in the press.

In *Cuba* by Order of 15 May 1902 correspondence and circulars sent by transport undertakings must deal solely with transport

conditions, the dates of departure of ships, and other practical information of this kind. Every infringement of this regulation is considered to be in the same category as tax evasion and as subject to the same punishments.

In *Czechoslovakia*, according to an Act of 15 February 1922, transport agencies are allowed to state in their advertisements only their office address, the name of the ship, and the route and conditions of transport. They are not allowed to distribute prospectuses to persons who do not ask for them nor to enter into relations with third parties who, for the purpose of emigration propaganda, undertake paid work for them.

In *Germany* a Decree of 14 February 1924 stipulated that all persons wishing to give information and advice on conditions of life, work and settlement, etc., in foreign countries had first to obtain a permit from the authorities.

According to a decree of 28 June 1935, all advertisements appearing in the press offering work in foreign countries must be approved before publication by the State Labour Offices (Landesarbeitsämter).

In *Greeee* an Act of 24 July 1920 stipulates that circulars and bills issued by emigration agents must mention nothing but the name and tonnage of the ship, the date of departure, the names of the different ports, the restrictions on immigration in force in oversea countries and other similar information.

In *Italy* in a Circular of 3 June 1927 to the Prefects of Provinces, the Head of the Government drew attention to the need of keeping a close watch over the activities of all unauthorised persons who had an interest in promoting migration.

An Act of 24 July 1930 provides severe penalties for those who encourage the emigration of Italian citizens by means of proclamations, circulars, handbooks, publications or any other forms of advertisement. Still more severe penalties are inflicted if the offence is committed for gain or if false information is made use of.

In *Poland*, according to a Decree of 11 October 1927, only persons or organisations specially authorised by the Ministry of Social Affairs and supervised by it have the right to furnish information regarding opportunities of employment in foreign countries or to give advice to intending emigrants. The authorisation can only be given to representatives of employers who are established abroad and who are approved by the Polish Government, and to institutions for the protection of emigrants. The emigration authorities must make sure that the information given is correct. Undertakings licensed by the Polish Government to transport emigrants may, without special authorisation, post up their address, the routes to be followed and the conditions of the voyage; they may only communicate prospectuses on request by interested persons.

In *Rumania*, under an Act of 11 April 1925, all transport companies are forbidden to post up or communicate any information other than that concerning the route followed by their ships and conditions of transport and accommodation. If false information is given the licence of the transport company may be withdrawn.

In *Spain* the law permits the opening of commercial information agencies. Consignees and shipowners who engage in the transport of emigrants may open such agencies on Spanish territory if they

apply for a permit stating the locality and fulfil other conditions. These information agencies may use as propaganda only posters, prospectuses and literature which have been approved by the emigration inspector of the district.

In *Yugoslavia*, under an Act of 30 December 1931, representatives of shipping companies may not give any information except such as concerns the transport itself.

§ 2. — Supply of Authoritative Information

In order to meet the migrants' legitimate need for authoritative information the authorities are tending more and more themselves to organise and supervise free information services and to supplement practical advice by means of pamphlets and other publications, setting out such matters as the conditions governing emigration and immigration, admission to employment, etc. Among the most useful official publications are the pamphlets distributed directly by these information services to intending migrants. Periodical bulletins notifying changes in immigration legislation and in the general situation in immigration countries are also issued and communicated to the private associations interested in the questions with which they deal.

The activities of the information services organised by the Government are often supplemented by those of social, occupational, charitable or denominational organisations which are interested in emigration and are in direct and close touch with intending migrants. The work of these organisations is often subject to official authorisation and supervision and the information they furnish must in many cases be based on official documents supplied by the competent authorities. In several countries, e.g. the Society for the Oversea Settlement of British Women in Great Britain, they enjoy a semi-official status.

Among measures for the supply of authentic information may be mentioned the requirement met with in certain countries that the provisions of the Emigration Acts concerning the obligations to be discharged by the transport agent shall be brought to the notice of emigrants by posting them up in offices and ships. Reference should also be made to the provision contained in the laws of certain countries that there shall be a time interval between the enactment of legislation and its enforcement; this has the advantage of

enabling intending migrants and others interested in migration to adapt themselves to the new regulations. Further mention of these two requirements with illustrative examples will be found below.

Organisation of Information Services

Information services organised by the Government are usually placed under the emigration authorities, such, for example, as the Ministry of Foreign Affairs, the Ministry of Labour or the Ministry of Social Welfare. In order that the distribution of information may be effective, it is necessary that the supply of useful data should be directed to the central information offices in a systematic manner and that the particulars received should be made available to the public in the most suitable way. For this reason, in the majority of emigration countries the furnishing of authentic and up-to-date information to their respective Governments is the duty of diplomatic and consular representatives who communicate periodically changes in the immigration laws of the countries to which they are accredited, details of the possibilities of work for immigrants in their areas, etc. Some of the more important emigration countries send out expert officials to the countries to which a large number of their emigrants go, in order to keep the home authorities informed of the general situation. The distribution to the public of the information thus collected is the function of both official employment exchanges and of special emigration offices, where such bodies exist. In many cases it is the duty of the emigration office to distribute the information it has collected to the employment exchange, which in turn communicates it to interested persons.

Below will be found a brief analysis of the organisation and working of public information services in a number of *emigration* countries.

In *Austria* an Act of 21 July 1925 makes the Information Office for Emigrants attached to the Chancellery of the Austrian Confederation responsible for supplying intending emigrants with all requisite information.

In *Belgium* a central office under the Ministry of Foreign Affairs collects and communicates all available information concerning migration overseas. It sends statistics and reports summarising the economic situation in countries open to emigration to branch offices which are established in the principal towns of each province

and which place at the disposal of all interested persons the text of migration laws and a list of firms in Belgium authorised to recruit and transport migrants.

In *Czechoslovakia* the Emigration Act of 15 February 1922 places the supply of information regarding the prospects of emigration under the supervision of the Minister of Social Welfare, and no information concerning the prospects of emigration may be given without a permit. The regulations governing the administration of the Emigration Act recommend that officials responsible for issuing passports shall see that emigrants receive free of charge reliable information on the country to which they are going.

In *Denmark* a National Emigration Office was set up in July 1934 to advise on conditions in oversea countries. Information on the conditions of admission to each country and of residence there are sent to the Danish Government by its consuls.

In *Germany* one of the duties of the *Reichsstelle für das Auswanderungswesen* which was appointed in April 1924 was to collect information on emigration prospects and transmit it to local offices which, with the exception of approved public utility organisations, had to be specially authorised by the Government. In addition the *Reichsstelle* published a fortnightly review on the conditions of immigration and settlement in foreign countries, and circulars for administrative use. The local offices, besides being kept well informed of the migration situation were also notified by the passport offices of all applications for emigrants' passports and could thus get into touch and assist every would-be emigrant.

In *Great Britain* the Oversea Settlement Department is responsible for the collection and distribution of information on conditions of emigration, the publication of handbooks on emigration to different countries and the giving of advice to intending emigrants individually by means of personal interviews or by correspondence. The Society for the Oversea Settlement of British Women, which is a semi-official organisation, acts as an advisory body and gives information and advice to women who are contemplating emigration.

In addition public employment exchanges distribute official publications on conditions of immigration in various countries and notify intending emigrants of available opportunities for employment abroad. Representatives of the Dominions and Colonies in Great Britain also provide intending emigrants with information.

In *Malta* the Emigration Department takes an active interest in supplying emigrants with information. It answers individual requests and its annual reports contain detailed particulars of the conditions of immigration in the various countries.

In *Hungary* the Emigration Department is responsible for supplying emigrants with the necessary information and for issuing publications of general interest to them.

In *India* the State does not undertake the supply of information to emigrants but it closely supervises this work.

In *Japan* much attention is paid to the supply of information to emigrants by both Government and private emigration societies.

Among Government measures in Japan itself may be mentioned the institution of an information office by the Ministry of Oversea Affairs which anyone interested in emigration may consult free of charge; the organisation of lectures, broadcasts, cinema performances, etc.; and the sending of lecturers to meetings arranged by private emigration societies to provide the requisite information. At the Emigrants' Training Centre at Kobe, the port of departure for Brazil, an attempt is made to give the emigrants an idea of the language, manners, customs and general agricultural conditions of Brazil by means of free lessons. Abroad, a service called the Industrial Encouragement Division has been set up by the Japanese consular authorities at Sao Paolo to supply emigrants with information and advice.

Among the activities of private associations for the encouragement of emigration may be mentioned the following: *(a)* the organisation of lectures, courses, cinema performances, etc.; the publication of reviews and pamphlets to supply accurate information about the immigration countries and to encourage emigration; *(b)* research and investigations regarding immigration and, when necessary, the despatch of agents for this purpose to immigration countries; *(c)* the organisation of an information service on emigration questions for the assistance of persons who are thinking of emigrating; and *(d)* the organisation of an information service for the assistance of emigrants already settled abroad.

In *Mexico* the Ministry of the Interior publishes posters and leaflets giving information on the conditions of admission to the countries of immigration and warning intending emigrants of the penalties imposed for contraventions of immigration laws.

In the *Netherlands* emigrants proceeding to European countries are furnished with information by the Unemployment Insurance and Employment Exchange Department of the Ministry of Social Affairs, and those going oversea by the Dutch Emigration Society which is subsidised by the Government and private organisations and is supervised by the Ministry of Social Affairs. The Society has representatives and agents in the countries of immigration and keeps in close touch with the employment situation.

In *Norway* an information office for emigrants was set up in 1924 and attached to the State Employment and Unemployment Insurance Office. It receives its data from Norwegian legations and consulates through the medium of the Ministry of Foreign Affairs and gives impartial information to intending emigrants on the conditions of admission and employment in the proposed country of destination. It also gives Norwegian emigrants who wish to return home information on the possibilities of finding work in Norway. The information collected is communicated to the public employment exchanges and unemployment committees, and is sometimes published in the press.

In *Poland* a Decree of 1932 abolished the Emigration Office which until then had been responsible for the collection and distribution of information to emigrants, and made this a function of the Ministry of Social Assistance. In practice the Ministry carries out this duty through the medium of the Emigration Syndicate and through the issue of various official publications.

The Emigration Syndicate is a semi-official institution which was set up in 1930 to supply information to migrants and to help them before departure. The information is given both orally and by correspondence and is based on material furnished or approved by the Government. The Syndicate publishes a weekly emigration bulletin containing emigration news which it distributes free of charge to intending emigrants, the press, public authorities and private institutions in touch with emigrants. It also published brochures from time to time containing information on the conditions and possibilities of emigration, which are distributed through its agencies and the employment exchanges to intending emigrants. In order to intensify its information services and reach districts remote from its offices, the Syndicate in 1931 and 1932 appointed correspondents from among members of local authorities. Their business is to give intending emigrants preliminary information and to put them in touch with local branches of the Syndicate. Like the Syndicate itself, the correspondents make no charge for their services. The Syndicate proposes in the future to establish a close network of local agencies and branches.

The Syndicate operates as a joint stock company, 70 per cent. of the shares being held by the Polish Government and 30 per cent. by licensed transport companies. In view of the savings which the Syndicate enables the companies to make in connection with their expenditure on agencies and information offices, it receives from them a commission on steamship tickets sold by its offices.

In *Rumania* the public employment exchanges, which are under the control of the Employment Exchange Directorate of the Ministry of Labour and Social Welfare, are responsible for supplying information to emigrants. The Directorate keeps itself informed of the state of the labour market at home and abroad, of the conditions for admission to countries of immigration and of the conditions of life, work and wages in those countries. It keeps in touch with similar foreign and international organisations, and informs the public by suitable means of the information it has collected.

In *Spain*, according to the Act of 20 December 1924, it was one of the functions of the Directorate-General of Emigration and its inspection services to supply emigrants with information free of charge, and for this purpose information offices have been set up in Madrid and in the offices of the inspectorate [1].

In order to ensure the reliability of the information furnished the consuls must inform the Directorate-General of all changes in the immigration legislation of the countries to which they are accredited.

In *Sweden* the Social Board, in agreement with the Ministry of Foreign Affairs, collects data from its legations and consulates and provides for the widespread diffusion of information on emigration, in which work it is assisted by private associations.

In *Switzerland* the employment exchanges give advice to emigrants on the state of employment in the proposed country of

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[1] The Directorate-General of Emigration was suppressed by a Decree of 6 September 1927. Its functions were taken over by a Directorate-General of Social Affairs and of Emigration, and, on its suppression, by an Inspectorate-General of Emigration set up by a Decree of 21 June 1929.

destination under the supervision of the Federal Emigration Office to which they apply for all particulars.

In *Yugoslavia* the publication of official information on emigration questions is in the hands of the Emigration Section of the Ministry of Social Affairs; the information service is, however, in the hands of the Commissariat of Emigration, which must answer all enquiries. Information is communicated regularly by the emigration attachés abroad and is also obtained from the foreign press, from former emigrants and by means of correspondence with other emigration institutions, commercial undertakings and private associations.

Organisations in the countries of *immigration* have also considerably developed their information services for immigrants. These are often required to take steps to rectify the erroneous impression which may have been created by exaggerated propaganda by land settlement societies and shipping agencies or by employers and recruiting agents. They usually consist of two branches: those established in foreign countries to supply future immigrants with information concerning the prospects of settlement and of obtaining employment in the immigration country concerned, and those established in the immigration country itself to provide new arrivals with details likely to help them to settle down rapidly and successfully. For the former, as is done by the countries of emigration, the services of consular representatives are usually utilised, though in some cases special agents are appointed and special immigration offices set up to give information on immigration. In this connection attention must be called to the offices maintained in Great Britain by the Dominions and those established in other mother countries by protectorates enjoying financial autonomy. Before the depression and the cessation of emigration these offices supplied the public with oral information and distributed useful booklets and pamphlets to those interested.

In *Argentina* officials of the Immigration Office provide new arrivals with all the necessary information. By Circular of 8 March 1923 the consular services were recommended to facilitate the distribution of pamphlets and to supply full information to all those wishing to go to Argentina.

In *Australia* the office of the High Commissioner of the Commonwealth established in London acts as an information bureau on matters concerning immigration and settlement, and the different States are also represented in London by Agents-General who give information concerning the conditions of settlement in their respective States.

In *Bolivia* a certain number of consulates are organised in Europe as information offices and give, when requested, detailed

information on elimatie eonditions and the situation of eommeree and industry in Bolivia. They distribute books and pamphlets prepared by the Ministry of Colonisation in the more eommon languages.

In *Brazil* the General Directorate of Settlement publishes pamphlets summarising the immigration laws and deseribing the possibilities of settlement, and under Instructions issued on 30 June 1925 was entrusted, in co-operation with the Immigration Commissariat, with the organisation of information offiees at the ports of disembarkation.

In *Canada* before the world depression the Department of Immigration and Colonisation maintained offiees in Great Britain and other eountries. In Canada itself the Land Settlement Branch of the Department appointed representatives to give information to settlers as to land where they would have the best opportunities of sueeess, the purchase price of land which they might buy, ete. The Provincial authorities co-operated with the Dominion authorities in giving information to migrants after their arrival in Canada.

In *Colombia* the Immigration Committees in the ports and frontier stations provide immigrants with information on the districts to which they wish to go.

In *Cuba* information ageneies are established in Europe in countries where the Government deems necessary and from which it appears desirable to receive immigrants. These agencies are placed under the control of the Assistant Delegate for Immigration in Europe. Private propaganda work by means of promises of employment or the use of advertisements or posters likely to stimulate immigration is forbidden.

In *France* foreigners taking up employment are supplied with information through the medium of their contract of engagement which eontains details of the immigrant's social and voeational privileges and obligations. Migrants ean apply for information in their own eountries to the French eonsuls, and in France to the competent Ministries.

An example of an employer's assoeiation using foreign labour playing an important part in the direct supply of information to immigrants is provided by the Union of Metal Working and Mining Industries which undertook at the request of the Freneh authorities to give adequate information to foreign workers in the mines and to their families. For this purpose it published in 1929 and 1930, in French and various other languages, a commentary on the administrative regulations regarding these workers, supplemented by films showing work in the mines and photographs of the soeial institutions and housing aeeommodation available to foreigners.

In *New Zealand* the High Commissioner for New Zealand in London furnishes information to intending emigrants. On arrival in New Zealand assisted immigrants are met by officers of the Immigration Department who gives them all neeessary additional information.

In *Venezuela*, aeeording to an Aet of 26 June 1918 immigration agents where established in Europe and other plaees, and eonsuls and eommercial agents were required to furnish any information which might be demanded of them by intending immigrants.

The Posting up of Legal Provisions Concerning Migration

As will have been seen from the above examples, information on the conditions of emigration and of immigration, of employment in the new country, etc., and of repatriation when this is desired is furnished by the information services of a number of countries by means of press notices, posters, leaflets and other similar publications, and these are made available to migrants in accessible places, such as employment exchanges, consular offices, migration agencies, and the offices of transport undertakings. In addition, in order that a migrant may understand what rights he has, some countries require that a copy of the provisions of the Acts concerning the obligations to be discharged by the transport agent must be posted up in prominent places in offices and on ships, where they may easily come to the notice of the migrant, or that they must be printed on the passage contract.

In *Belgium*, according to the regulations of 25 February 1924, the Acts and regulations concerning the transport of emigrants and all notices published and approved by the Government Commissioner must be posted up in all hostels for emigrants.

In *Czechoslovakia*, according to a Decree of 8 June 1922, transport undertakings must post up a copy of the Emigration Act, its regulations and orders in prominent places in their offices, and must draw the attention of emigrants to these notices.

In *Denmark*, under the Regulations of 28 March 1870, a copy of the regulations concerning the transport of passengers must be posted up in an accessible and prominent place on emigrant ships.

In *Great Britain*, according to the Merchant Shipping Acts of 1894 and 1906, the master of a ship must, if requested, produce a copy of Part III of the Merchant Shipping Act and of the scale of provisions applicable to the voyage for any steerage passenger for his personal use, and must post copies of the extracts and of the scale of provisions made by the Board of Trade in at least two conspicuous places between the decks on which steerage passengers are carried.

In *Hungary* the provisions of the Emigration Act of 1909 concerning the obligations of the transport agent must be included in the transport contract.

In the *Netherlands*, according to the Transport of Emigrants Act, 1861-1869, copies of the Transport of Emigrants Act and the regulations for its application must be posted in prominent and accessible places on all ships to which this Act applies (emigrant ships).

In *Norway* under the Regulations of 18 December 1899 a copy of the Emigration Acts and regulations must be posted up in a prominent place in all offices of transport undertakings.

In *Spain* according to an Order of 20 January 1925 the conditions of the transport contract must be posted up in a prominent place in all offices issuing emigrants' tickets.

In *Sweden* a copy of the Transport of Emigrants Order of 4 June 1884 must be posted up in a suitable place in the part of the ship that is reserved for emigrants.

In the *United States* an Act of 3 March 1893 declares that all steamship or transportation companies and other owners of vessels regularly engaged in transporting alien immigrants to the United States are required to keep conspicuously exposed to view in the office of each of their agents in foreign countries a copy of the immigration laws of the United States in the language of the country concerned and they must instruct their agents to call the attention of persons contemplating emigration to this copy before selling tickets to them.

Interval between passing of Legislation and its Enforcement

The laws of a number of countries provide for a period of time to elapse between the passing of legislation regulating the conditions of emigration and immigration, etc., and the actual coming into operation of the new provisions. This delay is useful in that it gives the migrant himself and the institutions and agencies interested in migration the opportunity to familiarise themselves with the regulations to which they will in future have to adhere before they are enforced, and also lessens the possibility of a worker being prevented from migrating when he has already incurred expenditure or even being stopped after he has started on his journey.

In the text of the Treaty of Settlement and Labour between *Belgium* and the *Netherlands* it is stated that the Treaty shall come into operation thirty days after the exchange of the instruments of ratification, and that it may be denounced at any time subject to one year's notice.

In *Czechoslovakia* the text of the Act respecting emigration dated 15 February 1922 states that the Act shall come into operation three months from the date of its promulgation.

In *Greece* the text of the Act to amend the legislation respecting travelling abroad and emigration and respecting passports, dated 13 May 1930, states that the Act shall come into operation thirty days after its publication in the official Gazette.

In *Guatemala* the text of the Decree concerning the employment of national labour, dated 27 April 1925, states that the Act shall come into operation thirty days after its publication.

In *Iceland* the text of the Act respecting the right of aliens to work in Iceland, dated 31 May 1927, states that the Act shall come into operation on 1 October 1927.

In *Poland* the text of the Order of the President of the Republic respecting emigration, dated 11 October 1927, states that the Order shall come into operation two months after its promulgation.

§ 3. — Resolutions adopted by International Conferences

The question of the supply of information to migrants was for the first time discussed internationally by the Conference of Emigration Countries which met at Rome in July 1921. This Conference adopted two resolutions recommending respectively that all available information concerning the conditions of emigration should be given free of charge and that all fraudulent propaganda concerning emigration, immigration and repatriation should be prohibited.

In August 1921, the International Emigration Commission convened by the International Labour Office adopted two similar resolutions. The one recommended that "each Member (of the International Labour Organisation) should undertake to place at the disposal of all persons, if possible free of charge, all available information regarding the conditions of emigration"; the other that "each Member should make it a punishable offence to disseminate false statements with a view to inducing emigration". Again, the first International Conference on Emigration and Immigration which was held at Rome in 1924 recommended that "all emigration propaganda which is not authorised by the State should be prohibited and that public services should be established to provide information free of charge to workers contemplating emigration". The Second International Conference of Emigration and Immigration, held in Havana in 1928 also passed a number of resolutions recommending the drawing up of bilateral agreements with the same aim in view. In particular it recommended that agreements should be concluded providing *(a)* for collaboration between the immigration countries and emigration countries in order to assure emigrants of a constant source of information concerning the qualifications they should possess in order to secure employment in the countries to which they intend to go; and *(b)* for the establishment, to the extent that this is possible, of one or more systems of supplying information so that the Governments of the emigration countries can base the information that they give to emigrants on reports furnished by the immigration countries.

The Conference also passed a resolution concerning measures for the suppression or rectification of incorrect or false information concerning emigration or immigration countries spread with the intention of discouraging or encouraging emigration.

It is perhaps useful to recall here the Recommendation adopted by the International Labour Conference in 1922 in regard to the centralisation of information on migration questions of which mention was made at the beginning of this chapter.

CHAPTER II

RECRUITING AND PLACING IN EMPLOYMENT

When a worker leaves his country in order to take up employment in another there are various reasons which may have prompted him to do so. It may be that he leaves of his own accord with the intention of trying his luck abroad. This form of emigration, which was by far the most usual in the nineteenth century, has greatly fallen off since the war. The risks it involves for the persons concerned or for the labour market have led the countries of emigration as well as those of immigration to make it the subject of special restrictions or prohibitions. In its stead various systems of recruiting have been formed, all of which present this common feature, that the emigrant does not set out on his journey until he has been sent for by the country of immigration or has been invited to go there to take up a definite post. This recruiting may be undertaken at a distance through direct correspondence between the employer and the worker, or through intermediaries whose action is reduced to the least possible. It may also happen, however, that the employer or his representative comes in search of the labour he needs for his undertaking to the workers' country of origin. Lastly, recruiting may be effected on the spot by intermediary bodies, whether or not acting as the representative of an employer or group of employers. The operation in this case often takes the form of collective recruiting.

This active search carried out on the spot for workers of one country with a view to employing them in another has led to various unilateral or bilateral regulations, both in order to safeguard the emigrants' interests and to protect the home labour market of the countries concerned. Methods have been devised for the submission and examination of applications by the employers of one country for the workers of another. The activities of recruiting agents, in so far as these are authorised, have as a rule been placed under fairly strict

supervision. In the countries of immigration, where these regulations have been carried furthest, the making of preliminary enquiries may in many cases be undertaken only by certain recognised public bodies, and the function of the recruiting agents, whether or not representing employers, is then confined to making a " selection ", i.e. choosing the workers to be engaged from among a group, large or small, of candidates who have been brought before them.

This chapter will first analyse the rules for the submission and examination of applications for work by migrants. Next the various types of agents who undertake the recruiting and placing of migrant workers will be described ; the regulations governing their activities will then be reviewed, followed by an account of the methods by which migrants are selected in those cases where this selection is a separate phase of the recruiting process. Lastly, those general measures of protection will be set out which are designed to protect the emigrant worker at the time of his departure, with regard both to the amount and method of payment of the travelling expenses which he may be required to defray, and also to the travelling risks to which he is exposed.

§ 1. — Applications for Labour

Submission of Applications

An estimate of the labour requirements to be met is the starting point in any organised international recruiting operation. This is usually prepared in respect of each undertaking by the employer, who is required to submit it to the competent authorities of his own country in the form of an application setting out the number and qualifications of the workers desired, the wages that they will be paid, the working and living conditions as well as the type of work they will be called upon to perform. In some cases a separate document is used for this purpose which is forwarded either before or with the contract of employment, while in others the contract itself if not signed by the employer, or a written offer of employment from an undertaking in the immigration country, is regarded as an application. As there are a large number of questions in this connection which can only be dealt with by the emigration and immigration countries acting together, the procedure is as a rule regulated by bilateral treaties.

In the bilateral treaties concluded by *France* with *Poland*, *Czechoslovakia*, *Hungary*, *Italy*, *Rumania*, *Austria*, *Yugoslavia* and *Spain*, it is stipulated that employers must use approved forms and submit their applications to the authorities of the immigration country.

In some cases, as for example in the recruitment of *Polish* seasonal workers for agricultural employment in *Germany*, the application as well as the contract of employment signed by the employer were required to be submitted at the same time. This system enabled the immigration country to combine in one single operation the submission of an estimate of the number of foreign workers required, the determination of the annual quota by the authorities and the authorisation for engaging the workers. At the beginning of October of each year, the employers submitted to the German public employment exchanges their applications stating the number of immigrants previously employed, the areas already cultivated and those that remained to be cultivated, the housing accommodation available and the number of workers required.

The procedure governing applications for foreign labour is occasionally regulated by agreements between a Government and a private association, as in the case of the agreement between the Yugoslav authorities and the General Immigration Company, which is a French private organisation, on the recruitment of Yugoslav workers for employment in France, the two Governments having concluded an agreement on the subject at a later date.

There are also instances in which the procedure is entirely unilateral.

In the *United States* the applications for skilled workers, which are addressed to the competent immigration official, must be in the form of an affidavit and specify the number of workers of either sex to be engaged, the wages that they will receive, their hours of work and the name, age, nationality and the last permanent foreign address of each worker. The port and date of arrival of the immigrants and the ship transporting them must also be indicated. In addition, the application must state whether the industry is a new or an old one in the United States, the principal centres of the industry in that country, the names of the trade journals if any, the time required as a rule for a worker to acquire skill in the occupations concerned, the efforts made to obtain the necessary labour within the country and whether there are any actual or impending trade disputes in the undertaking.

Kinds of Applications

Various types of applications for labour are used in organised recruiting and placing of migrant workers corresponding to the methods employed. In some cases, a worker or, it may be, a whole family is recruited separately. This is more especially the case in agriculture, where the workman is frequently helped by his wife and children in the care of farm animals and other light work. When the wife and

family do not accompany the worker, facilities may also be provided allowing them to join him at some later date. In individual applications the worker may or may not be specified by name.

Collective applications for large groups of workers generally come from industrial undertakings. The procedure governing such applications is as a rule regulated by bilateral agreements.

The recruitment of agricultural labour is effected by small groups, sometimes under a leader. Reference is made to this type of recruitment in the agreements made by *Germany* with *Yugoslavia* (22 February 1928) and *Czechoslovakia* (11 May 1928) and in the *Austro-Czechoslovak* agreement of 24 June 1925. When the application is partly nominal and partly numerical, often only the leader of the group is mentioned by name and the employer relies upon him to find the rest of the group.

Some applications mention the workers by name (nominal applications) and others only indicate their number and the nature of the work for which they are required (numerical applications). Of the former, some are for workers personally known to the employer or recommended to him by one of his employees. In the case of workers known to and named by an agent or intermediary, in addition to the authorisation that the employer is usually required to procure, a special permit may be necessary for the agent. In some cases nominal applications are not regulated by treaties, but there are also instances in which provision is made for them in such agreements.

According to the treaties concluded by *France* with countries of *Central and Southern Europe*, an employer may name the workers he desires to obtain.

In some countries such as *Italy* and *Palestine* applications for migrant workers by name are recognised and the procedure governing them is regulated by law.

Numerical applications are generally indicative of a systematic organisation of migration.

The bilateral treaties concluded by *Austria*, *France* and *Germany* with various countries of *Central* and *Eastern Europe* provide not only for numerical applications but also for contracts of employment in which the workers' names may be added by the recruiting agent when the engagement is actually made.

There are also applications of a mixed character, in which some of the workers required are mentioned by name and, as for the rest, only the number is indicated.

This method was largely employed in the recruitment of *Polish* workers for employment in *Germany*.

According to the regulations regarding applications for labour in force in *Italy* until recently, not more than 50 per cent. of the workers required might be mentioned by name.

Applications also vary according to whether the workers required are to be engaged for a definite or an indefinite period, a different procedure being adopted in each case.

In *Palestine*, for example, applications for temporary labour must specify the number of persons that the employer wishes to bring into the country, the nature of the work to be performed, the place of employment and the probable dates of entering and leaving the country. Such applications must be accompanied by a declaration by the employer that, if he cannot prove that the persons named in the contract of employment have left Palestine by the agreed date, he will pay the Government an amount to be fixed by the immigration authorities.

Examination of Applications

Applications for workers are transmitted to the recruiting organisations only after they have been carefully scrutinised and approved by the competent authorities of one or both of the countries concerned with the object of ensuring that agreements to apply the principle of equality of treatment to emigrants will in practice be observed, the procedure in this respect being regulated by national measures or bilateral treaties or both. At the same time such an examination also provides an opportunity to prevent recruitment for undertakings involved in industrial disputes. This last question was especially dealt with in a recommendation of the International Emigration Commission in 1921. Moreover, a number of treaties specify that no recruiting is to be allowed for an undertaking in which a strike or a lock-out is in progress.

In *Italy* individual nominal applications from foreign employers are as a rule forwarded to the mayor of the place in which the worker resides by the competent Italian consular authority, with his observations. The mayor is authorised to issue a passport which enables the worker to proceed to the place of work without having to submit to further formalities. Collective applications, whether nominal or numerical, are addressed to the Ministry of Foreign Affairs and thence sent to the emigration offices for the districts from which the workers are to be recruited.

In *Luxemburg* applications for foreign workers are required to be submitted to the official employment exchange from which a

certificate must be secured to the effect that the necessary labour force cannot be obtained locally.

In *Palestine* immigration certificates, which are compulsory, are issued only up to the limit of the half-yearly labour schedule, the number left over after all the applications have been dealt with, if any, being distributed to the Jewish Agency or to employers desiring to have more workers. Immigration for temporary work is allowed only if it is indispensable.

In the *United States* every application for foreign skilled workers must be submitted to an immigration official and then it is transmitted through the Immigration and Naturalisation Service to the Secretary of Labour who takes the final decision.

Under the *Austro-Czechoslovak Administrative Agreement* of June 1925, two copies of the contract of employment signed by the employer and approved by the Austrian Ministry of Agriculture are forwarded to the competent Czechoslovak employment exchange.

Under the *Franco-Polish Convention* of 1919 concerning collective recruiting, applications must be submitted by the employer to the competent authority of the immigration country for transmission to the competent authority of the recruiting country and should be approved only if, on the one hand, the labour requirements of the undertaking concerned justify recruitment abroad and, on the other, the living and working conditions offered to the emigrants are in accordance with the principles laid down in the Convention. The Franco-Polish Protocol of 1925 stipulates that applications for workers from an employer who has seriously or habitually failed to give effect to the conditions of employment prescribed are to be rejected and requires an assurance that the workers recruited are not intended for an undertaking in which a strike or lock-out is in progress.

The *Franco-Czechoslovak Convention* of 1920 established a similar procedure to that of the Franco-Polish Convention and also requires an assurance that the workers recruited are not intended for an undertaking in which a strike or lock-out is in progress.

A distinction was made in the Conventions concluded by *France* between nominal and numerical application as from 1929 and a different procedure was prescribed in each case. Under the treaties concluded with *Austria* in 1930 and with *Yugoslavia* and *Spain* in 1932, numerical applications are required to conform to the standard established by agreement.

In the *Germano-Czechoslovak Agreement* of May 1922 it is provided that the German Central Office for Workers is to transmit the applications from German employers for Czechoslovak workers to the Czechoslovak employment exchange concerned along with four copies of the contract of employment signed by the employer or by the German Central Office on his behalf. The contract is required to be in conformity with the standard contract drawn up by the Technical Agricultural and Forestry Committee of the German Institution for Unemployment Insurance and Employment Exchanges. The Czechoslovak employment exchange countersigns the contract and forwards it to the foreman with the employer's instructions.

By the *German-Polish* Treaty of November 1927, applications from German employers for Polish workers, whether nominal or

numerical, were to be submitted to the Polish public employment exchanges, and in no case were the workers to be approached directly. The applications were, however, examined, in the first instance, in Germany itself by the employment exchange concerned in order to ascertain whether the proposed immigration was necessary and then by the State Employment Office. Thereafter, the Joint Technical Agricultural Committee of the Institution for Unemployment Insurance and Employment Exchanges considered them along with applications for labour from other countries. When the application was finally approved and the quota had been fixed, the employer got into communication with the German Central Office for Workers (now the Federal Institution for Unemployment Insurance and Employment Exchanges) in order to arrange for the recruiting and submitted a signed contract of employment drawn up in conformity with the standard contract annexed to the Treaty. The German Central Office thereupon ascertained that the housing accommodation for the emigrants was up to the standard prescribed in the Treaty, and fixed the total number of workers to be recruited and their distribution in agreement with the Polish authorities.

Fixing of Quotas

The quota of workers of one country to be admitted into another for employment during a stated period is often previously determined as a means of regulating migration, and a number of bilateral treaties specify the methods by which this is to be done. Conferences of representatives of the countries concerned are usually held for the purpose, or permanent joint committees appointed. Consultation with occupational organisations is frequently required, this practice being in conformity with the Recommendation on the subject adopted by the International Labour Conference held at Washington in 1919 which provides "that the recruiting of bodies of workers in one country with a view to their employment in another country should be permitted only by mutual agreement between the countries concerned and after consultation with employers and workers in each country in the industries concerned". The latter provision has since been adopted by several other international conferences on migration. For instance, it was adopted in July 1921 by the Conference of Emigration Countries held in Rome; shortly after, in August 1921, by the International Emigration Commission of the International Labour Office; and in 1924 by the International Conference on Emigration and Immigration which met at Rome and adopted a Resolution reading as follows: "In the case of agreements between Governments

for the collective recruiting of workers, the conditions of recruiting may be established after consulting the employers and workers of the industries concerned in the two countries ".

Little information is, however, available on the work of the joint committees, the proceedings of which are not usually published. But excessive rigidity in the arrangements is avoided as a rule and the need for adaptation in accordance with circumstances that often change rapidly from season to season is recognised. In some cases, provision has been made even for an alteration in the quota originally fixed or for a withdrawal of its nationals by the country of emigration to suit the requirements of the employment situation.

The number of *Czechoslovak* workers to be recruited for seasonal employment in *Austria* was fixed by agreement each year in accordance with the Treaty of Commerce concluded between the two countries on 4 May 1921. Annual conferences consisting, among others, of representatives of associations of the Austrian employers and the Czechoslovak workers chiefly concerned to consider the arrangements relating to recruiting and placing are provided for in the *Austro-Czechoslovak* Agreement of 24 June 1925.

The *Franco-Polish* and the *Franco-Italian* Conventions of 1919 and the *Franco-Czechoslovak* Convention of 1920 contain a clause to the effect that the number and classes of workers to be recruited collectively are to be fixed by the Governments of the two countries in agreement and in such a manner as to prejudice neither the economic development of the one nor the interests of the workers of the other. This clause was reproduced with the omission of the word " collectively " in the treaties concluded by *France* with *Rumania* and *Austria* in 1930 and with *Yugoslavia* in 1932.

The first bilateral Conventions concluded by *France* provide for meetings of a joint committee at least once a year in one of the two capital cities of the countries concerned.

In the *Franco-Italian* Treaty of 1919 it is stated that in estimating the number of workers to be recruited each State reserves to itself the right to consult the employers' and workers' organisations within its own territories.

According to the *Franco-Polish* Convention of 1919 and the *Franco-Czechoslovak* Convention of 1920, the joint Committees for fixing the quota are to be informed of the views of a national advisory committee including employers' and workers' representatives on the number of workers to be imported. No such clause has, however, been included in the latest bilateral treaties concluded by France.

In *Germany* the usual practice up to the year 1931 was to distribute the total number of foreign workers required among the various emigration countries with which bilateral treaties had been concluded, the German Central Office for Workers fixing the quota in each case.

Applications from *German* employers for *Polish* workers were required to be submitted at the beginning of October each year.

The German Central Office for Workers (which has now been replaced by the Institution of Unemployment Insurance and Employment Exchanges) then informed the Polish authorities of the probable number of Polish agricultural workers required the following year. The Polish authorities examined the estimates and suggested any alteration that it considered desirable.

A similar procedure was followed under the *Germano-Yugoslav* Agreement of February 1928 and the *Germano-Czechoslovak* Agreement of May 1928 which also dealt with seasonal agricultural immigration into Germany.

Moreover, a Technical Committee consisting of representatives of German agricultural employers and workers was attached to the Federal Institution for Unemployment Insurance and Employment Exchanges, the body responsible for examining applications for foreign agricultural labour, and the final quota proposals for submission to the German Government and the authorities of the emigration country were framed by the Minister of Labour only after consultation with this Committee.

In the case of *Palestine* a quota is fixed without bilateral agreement in the following manner. Proposals concerning the total number of immigrants to be admitted in the following six months are regularly submitted by the Jewish Agency, the final decision being taken by the High Commissioner. According to the regulations under the Immigration Ordinance of 1925, however, if in the opinion of the chief immigration officer a larger number of foreign workers than that provided for in the six monthly labour schedule can be employed, he may issue additional certificates up to five per cent. of the number originally fixed.

In *Yugoslavia* before the conclusion of the *Franco-Yugoslav* Agreement the procedure for fixing the annual quotas for agricultural and industrial emigrants was regulated by the terms of two concessions granted by the Yugoslav Government to the French General Immigration Company. The Yugoslav communal offices registered the intending emigrants every year and communicated all the particulars concerned to the Emigration Commissariat at Zagreb, through the official employment exchanges or the local administrative authorities. A delegation of the General Immigration Company stationed at Zagreb transmitted to the Emigration Commissariat the applications for foreign workers received from French undertakings. The Emigration Commissariat examined these applications and approved or rejected them according to the conditions offered by the employers and the information in its possession on the undertakings in question.

§ 2. — Recruiting and Placing Agents

Recruiting of workers abroad may be carried out by the employer himself or his personal representative, but is most often effected by intermediary bodies whose function it is to seek out foreign workers, to introduce them into the country, and to place them in employment. These bodies, whose growth has been one of the chief features of the history of

migration since the war, vary markedly in character. The majority of them are private organisations specially established for the purpose of obtaining labour in a given country for employers in another country, or for foreign employers in general.

The earliest organisations in the field were created independently of workers and employers : they came into being, built up funds, and even made fairly big profits through the actual work of seeking out and supplying labour. This category comprises professional recruiting agents pure and simple, those who combine this occupation with transport business and the sale of passenger tickets, often described as "transport agents", and also generally speaking all intermediaries concerning themselves with recruiting whose profits increase, if not with the value of their services, at least with the number of workers supplied. They are becoming fewer, especially in Europe, where they have been made subject to ever-increasing restrictions the effect of which is to suppress them altogether whenever it is possible to supersede them by arrangements less costly for the parties concerned and more in keeping with the public interest. The laws or regulations of several countries lay down that the occupations of transport agent and labour recruiting agent are incompatible.

The independent professional recruiting agent, carrying on a sort of international recruiting and placing business, is now seldom found except in certain parts of the Far East and in colonial territories, or in certain forms of oversea migration ; and even here undertakings that cannot themselves recruit the foreign labour they need are tending more and more to resort to the services of persons with whom (foreign workers already on their staff, etc.) or of organisations with which they are in constant and personal touch.

Thus, stimulated by employers' occupational or economic groups, new recruiting bodies have come into being everywhere, especially since the world war. Possessing considerable resources, and receiving in many cases direct or indirect support from the Governments concerned, these bodies have played an important part in America, Asia, and later in Europe, particularly in collective recruiting of workers for large farms and plantations, industrial concerns employing a large staff, etc. In several countries labour immigration has been wholly or partly directed by these bodies, and

Governments have often negotiated agreements with them and have delegated to them, either in law or in actual practice, certain of their powers in regard to recruiting and placing.

Generally speaking, private organisations may undertake recruiting and placing operations only with the approval of the authorities of the country of emigration or of those of the country of immigration, or of both together. Practically every Government nowadays requires at least that persons engaging in this occupation must first obtain a permit and in many cases that they must observe detailed regulations, backed up by more or less regular supervision. As regards recruiting, several emigration countries have established a monopoly for the recruiting of labour in their territory and have entrusted it either to a single body, working under the direct supervision of the administrative department concerned, or else to that department itself.

On the workers' side, practically no international recruiting or placing organisations, properly so-called, have been set up. Most of the trade unions have nevertheless closely followed the working of the existing public or private bodies, especially in order to resist any recruiting or placing methods which would be injurious to the interests of the workers whether in the country of emigration or in the country of immigration. Reference will be made later to the demands put forward in this connection by international trade union conferences.

Direct Recruiting by the Employer

It is becoming more and more difficult for an employer in search of foreign labour to go personally to a foreign country and recruit the workers he requires, on account of the cost of this method and the practical difficulties involved. Such recruiting does nevertheless occasionally take place, especially when the employer is, or was formerly, a fellow countryman of the workers whom he intends to engage for work in the country where he now resides:

Another and quite usual method is for an employer to arrange directly with a foreign worker who has already been in his service to return to his undertaking. If the previous engagement between the employer and the worker in question

had come to an end, the worker is generally engaged by name (nominal recruiting).

Or again, as sometimes happened in *Germany* in respect of *Polish* seasonal immigration, the employer and his worker or workers may agree at the end of the season to sign a contract for the following season. Subject to the approval of the German and Polish authorities, these workers appeared in the quota recruited for work in Germany in the following year.

A similar method has been followed by many agricultural or industrial employers in *France* under a system known as " seasonal holidays ". When an immigrant worker wishes to spend the slack season in his own country, his employer, if he proposes to take him back on his return to France, gives him on his departure a certificate declaring that he will be re-engaged in the undertaking when he returns to France for the next season. On his return, the worker is admitted without any other formalities or permit, provided that he can produce, besides this certificate, his identity card as a foreign worker and a letter of recall from his employer endorsed by the competent Ministry ; this endorsement is granted only if the state of the labour market is such that the worker's return can be permitted.

Direct action by the employer may also cover advertising for labour in a country of emigration whether in newspapers or by means of posters, etc. Such advertising is often regulated and restricted by the country of emigration or immigration, as was shown in the preceding chapter.[1]

Recruiting by Agents in the Employer's Service

It is quite usual, at least in some countries, for employers to arrange with a foreign worker or foreman, often in consideration of a fee, that he should get into touch with available workers in his country of origin, and possibly even interview and select them himself.

Sometimes, too, certain large undertakings send abroad for recruiting purposes the head of their own personnel office, but this method, although theoretically likely to give the most satisfactory selection of workers, is seldom practised because of the loss of time and money which it involves for the undertaking concerned.

According to a report of the Austrian Chamber of Workers and Salaried Employees (1930), one method of engaging *Austrian* workers for *France* was for French employers to send special recruiting agents to Austria to select the labour required. The report notes that undertakings which decide to send such representatives at their own expense are in this way better able to find the

[1] See Chapter I, § 1, Prevention of Spreading of False Information, p. 4.

skilled workers they need than if they were to resort to the services of an employment exchange.

Those most actively concerned, however, in recruiting and selecting workers for France are not agents personally appointed by employers, but certain special bodies, which will be discussed later.

Before the world war, and in the first years following it when *Polish* agricultural emigration to *Germany* was being organised, German employers often sent agents in their employment to Poland to recruit and engage workers. The Polish Government, in agreement with the German Government, put an end to this practice, which, it was objected, exposed the workers to abuses and made it difficult to distribute the engagements fairly among the workers available in the emigration country.

Agents of a Group of Employers

A far more important method of recruiting at the present time is that by which a group of employers form a joint organisation to recruit and introduce foreign labour in order to meet the requirements of the undertakings belonging to the group. There are a number of these joint employers' recruiting organisations.

Recruiting of seasonal workers for *Denmark* was carried out in *Poland* with the assistance of the National Committee for Foreign Labour *(Landsudvalget for fremmed Arbejdskraft)*, set up by the Danish Agricultural Employers' Association and working only on behalf of the members of the Association.

Similarly, recruiting of seasonal workers for *Latvia* is carried out in *Poland* and *Lithuania* with the assistance of the Latvian Central Agricultural Association.

In *Poland* recruiting of workers for *Belgium* is effected with the assistance of the Labour Immigration Committee set up by and working on behalf of the Belgian Collieries' Federation.

Of the four Organisations which on the eve of the economic depression were authorised in *France* to carry out the recruiting and placing of foreign labour, two were trade organisations representing clearly defined industrial groups and working solely on their behalf (the iron works and iron mines of eastern France ; public works and building materials).

Transport Agencies

Transport companies have always closely followed the formation and growth of migration movements and many of them have played an active part, through the medium of their branch offices, in the recruiting and placing of migrants, whenever this was possible under existing laws and regulations. Their activities have in many cases been restricted by law and even prohibited, but several countries have confined themselves to regulating their work, while some have even

entered into agreements with the companies to organise, under a certain degree of supervision, the recruiting of foreign labour and the placing of emigrants.

In *Canada* the Government concluded an agreement with the *Canadian Pacific Railway* and the *Canadian National Railway* for promoting the immigration of certain categories of European workers. The number of workers to be admitted under the agreement was reduced at intervals up to 1930, in which year the Government terminated the agreement. Under its provisions, as drawn up on 1 September 1925, the two Railways were to use their best efforts to procure in certain European countries immigrants who were agriculturists, agricultural workers or domestic servants. They agreed not to take to Canada any immigrant who was not admissible under the Canadian regulations and to repatriate any immigrant brought by them who refused to engage in one of the occupations referred to and who therefore, became a public charge within one year of his arrival. The Railways had set up recruiting and selecting agencies in several large European centres, and had entered into agreements with the competent authorities of various countries.

Special Private Organisations

As noted above, the largest class at the present time consists of private organisations specially established for the purpose of seeking out, recruiting, introducing, and placing migrant workers. Some of these organisations have social aims in view, others are run for profit. They are sometimes created on the initiative of employers or economic groups, although they do not on that account work solely on behalf of the employers who are members of these groups.

In some countries *(Germany, Japan, Poland)* private recruiting organisations receive special protection from the Government. Such protection takes the form, for instance, of a *de jure* or *de facto* monopoly in engaging certain classes of workers, participation by the Government in meeting the expenses of the undertaking, etc. These organisations are subject to special supervision, their profits are devoted to social or philanthropic purposes, and they have certain duties in regard to supplying emigrants with information and training them.

In *Brazil*, the State of São Paulo provided new credits in 1936 for meeting from out of Government funds the cost of transport by sea of European immigrants for work on the "fazendas". The recruiting and the transport arrangements were entrusted to two private companies, under the supervision of the State Immigration Department. The contracts required of these companies include clauses for protecting the migrants' interests and preventing the

spread of misleading information. It is further laid down that the two companies must most strictly observe the laws and regulations of the country of emigration, and that they may not carry out any recruiting operations without having been duly authorised by the competent authorities of that country.

In *France* immigration in general is largely, and collective immigration in particular almost entirely, in the hands of private organisations, set up by certain groups of employers. These organisations, which must first be approved by the competent authorities, receive the employers' applications for foreign labour, in the capacity of " employers' authorised agents " are responsible for the selection, housing, transport, etc., of foreign workers. With regard to the various organisations for recruiting abroad, the Decree of 20 April 1932, which embodies the revised text of the schedule of conditions to be complied with by such organisations, refers to " (1) co-operative societies, associations, and occupational or inter-occupational groups of employers of foreign labour, which do not seek to carry on in these operations for gain and may not make profits in excess of a fair return on the capital invested, in the conditions prescribed by the schedule ; and (2) as an exceptional measure, companies specially set up for the recruiting and transport of foreign or colonial workers, which may not carry on any other activities nor make profits in excess of a fair return on capital ; and also, transport companies ".

Of the four bodies approved by the French authorities for the recruiting, introduction and placing of migrant workers in recent years, the largest was the *General Immigration Company*, established in 1924 as a limited company with a capital of 2 million francs, which was successively increased up to 20 million francs in 1930. It was created under the auspices of the coal-mining companies, the metal-working and mining companies, and also certain agricultural associations, which supplied the capital and the members of the governing body. This organisation has established services for selecting workers in several European countries, and between 1923 and 1929 it introduced approximately 1,200,000 immigrants into France.

In *Germany*, under the Federal Order of 19 October 1922, the recruiting and placing of foreign workers in agriculture together with all activities of a like character might only be undertaken by the German Central Office for Workers *(Deutsche Arbeiter-Zentrale)* ; this organisation was founded by the employers' Chambers of Agriculture but was converted in 1922 into a joint body. It was entrusted with wide administrative powers regarding the recruiting of foreign workers. It was responsible, within the limits of the bilateral agreements concluded by the German Government and of the regulations in force, for the selection of foreign workers for employment in German agricultural undertakings. It also had other very important duties, such as the issue of identity cards to foreign agricultural workers, the distribution and repatriation of these workers, etc. It was authorised, in order to cover its expenses, to charge a fixed fee to employers using its services, but it was forbidden to work with a view to profit.

The Central Office might, while reserving its right of supervision, delegate its recruiting functions : employers or their authorised representatives (e.g. overseers, head reapers, and foremen), might with the consent of the Central Office recruit foreign workers for agriculture or undertake operations for this purpose. According to

the Polish official statistics, this organisation engaged and sent to Germany between 1927 and 1931 325,488 Polish agricultural workers for seasonal work.

The Central Office was dissolved by a Decree of the Minister of Labour of 1 July 1935. Its functions were entrusted to the Institution for Placing and Unemployment Insurance, which continues to discharge them along similar lines.

In *Japan* a limited liability company the *Kaigai Kogyo Kabushiki Kaisha (Oversea Settlement Company)*, whose present capital is 9 million yen, was formed in 1917 through the merging of the older authorised emigration agencies and backed financially by various commercial firms (including two big shipping companies). It not only receives an annual Government subsidy but has also the virtual monopoly for the recruiting and placing of Japanese oversea emigrants. The company has opened offices in a number of places in Japan, which carry on publicity work in favour of emigration, make the necessary arrangements for the departure of emigrants, advance the cost of their passage, etc. In various countries of immigration, and particularly in Brazil (where in 1918 it was recognised by a Decree of the Federal Government), it owns land and has branch offices for the special purpose of receiving and placing immigrants transported by its services who are directed on arrival to employment found for them in advance. At the end of 1932, 112,167 Japanese had been transported and placed in this way in oversea countries.

In *Poland* a special organisation was created in 1930 under Government auspices, known as the Emigration Syndicate, whose main duty was to supply emigrants with information and to assist them before their departure, [1] but whose work later came to include collaboration in recruiting operations and the training of settlers and workers emigrating to certain countries. In the year 1934-35, 10,579 emigrants left the country through its assistance. In 1935-1936 the corresponding number was 11,882 and in 1936-1937 it was 16,441.

From the records of this organisation it appears that its work is having the effect of abolishing in Poland the scourge of illegal agents and middlemen, and has helped to reduce to negligible proportions the abuses and thefts from which emigrants so often suffered formerly.

Recruiting and Placing by Public Authorities

Emigration countries are tending more and more to create a State monopoly of recruiting for employment abroad, especially in the case of collective recruiting. The public authorities may make themselves responsible for all the phases of recruiting, in the widest meaning of that word (i.e. including the selection and transport of the workers recruited), or they may confine themselves to the preparation of the work of selection, which is in that case undertaken by the private organisations of the country of immigration, in agreement with the authorities and under their supervision.

[1] See above, Chapter I, § 2, p. 10.

In *Czechoslovakia* the Emigration Act lays down that when, as an exceptional measure, Czechoslovak workers are engaged for a country outside Europe, these workers must be recruited through the public employment exchanges.

In *Germany*, under the Decree of 28 June 1935, recruiting for foreign undertakings is reserved in principle to the Institution for Employment Exchanges and Unemployment Insurance, which may, however, authorise employment exchanges not dependent on it to engage in such recruiting.

In *Great Britain*, where there are no recruiting agents proper, the public employment exchanges have special arrangements to deal with all men and women who want information on the subject of oversea settlement and employment, and there are men and women officers in each exchange to do this work. Local employment committees have been set up to advise and assist the exchanges in all matters relating to oversea settlement and employment and to arrange for interviewing applicants. Exchanges may not proceed to fill any oversea vacancy until authority has been given by the Overseas Employment Branch of the Ministry of Labour.

In *Italy* the Government has not in principle authorised the establishment of foreign recruiting organisations, and the public authorities undertake practically all the phases of collective recruiting of workers for abroad; where the applications for workers are collective and do not mention particular workers by name, the emigration authorities forward them to the employment exchanges, which select workers of the occupation required. In 1930, following an agreement between the Commissariat for Internal Migration and the General Directorate for Italians Abroad, recruiting of workers for abroad was entrusted to the trade union federations, while the Commissariat was made responsible for their placing [1].

In *Poland*, in accordance with the Legislative Decree of 11 October 1927, the engagement of workers by foreign employers or their representatives must be effected through the administrative authorities. In practice, the employers' representatives do no more than make a choice from the list of candidates submitted to them by the local authorities (*starostwo*) [2].

The principle of recruiting by a public authority of the country of emigration has been embodied in several bilateral agreements, especially in the case of collective recruiting.

Under the agreements concluded by *France* with *Poland* (1919), *Czechoslovakia* (1920), *Hungary* (1929), *Rumania* (1930), *Austria* (1930), *Yugoslavia* (1932), and *Spain* (1932), collective recruiting of workers for France is carried out solely through the authorities of the respective emigration countries (i.e. in most cases the official employment exchanges). Workers so recruited are, however, " selected " before their departure, either by an official mission of the French Government, or by the employer's representative or an organisation approved for this purpose by the two Governments. This point will be further dealt with below (pp. 52 and 60).

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[1] Applications for labour from undertakings established abroad must, however, be sent to the General Directorate for Italians Abroad, which approves the working conditions and the contracts relating to these.

[2] Cf. below, pp. 41-53 and 60.

The *Franco-Czechoslovak* treaty contains, moreover, a clause whereby " all direct recruiting operations carried out . . . . by employers or their representatives, otherwise than through the official organisation provided for above, shall be void, and shall involve the nullity of the engagements which have arisen therefrom ".

Of all the treaties concluded by France, the *Franco-Italian* Treaty (1919) is the only one which does not provide for collaboration by French official or private organisations in the recruiting operations carried out in the country of emigration. In accordance with the Italian principle, [1] the authorities in that country themselves carry through all the recruiting operations and the arrangements for the workers' journey, but not until the workers reach the frontier are the French organisations in a position to decide as to their admission or rejection.

The agreements concluded by *Germany* with *Poland* (1927), *Yugoslavia* (1928), *Czechoslovakia* (1928), and *Austria* (1928) provide that the recruiting and placing of seasonal agricultural workers proceeding to Germany shall be undertaken only by the official placing organisations of the emigration countries and by the German Central Office for Workers *(Deutsche Arbeiter-Zentrale)*, which was referred to above.

Under the agreement concluded between *Austria* and *Czechoslovakia* (1925), the competent organisations for the recruiting of Czechoslovak workers for seasonal work in Austria and their placing are: in Austria, the public offices for agricultural and forestry work *(öffentliche Zentralstelle für land- und forstwirtschaftliches Arbeitswesen)*; in Czechoslovakia, the public employment exchanges. Recruiting and placing operations may only be carried out through these organisations. All clandestine engagements, i.e. engagements effected by any other means, are prohibited.

The administrative agreement concluded between the competent authorities of *Poland* and the State of *São Paulo* in *Brazil* (19 February 1927) lays down that the recruiting and selection of agricultural workers for São Paulo shall be carried out by the Polish authorities.

Immigration countries have but seldom set up official recruiting bodies in foreign countries. The explanation may be found in the danger of possible infringements of national sovereign rights, and also in the belief that the recruiting, or at any rate occupational selection of immigrant workers, may best be left to the employers, or else to the employers' organisations in the industries concerned.

Nevertheless, national authorities have on certain occasions carried out recruiting operations on a large scale. In *France*, during the world war, various departments brought about half a million foreign, colonial or Asiatic workers, to the country. After the war, the Ministry for the Devastated Areas sent an official mission to Poland to recruit workers, and to be responsible for the medical inspection of the emigrants and their selection in accordance with their occupational qualifications.

[1] See above, p. 22.

Measures such as these, however, were no more than temporary, and in the various immigration countries the place of the public authorities has been taken by the employers' organisations or special organisations for collective recruiting, although the authorities together with those of the emigration countries, still hold themselves responsible for supervising and generally directing recruiting operations.

The bilateral labour treaties concluded by *France* with the emigration countries of Europe (with the exception of the Franco-Italian Treaty of 1919) have all, however, as mentioned above, maintained the right of the immigration country to select emigrants by means of an official mission. In certain cases the missions sent into the country of emigration by the French Ministry of Labour have been entrusted with the selection of migrants to meet the applications for foreign workers by French employers who do not wish to engage them through professional recruiting agencies. For its part the French Ministry of Agriculture, in agreement with the authorities of the countries concerned, has for a number of years organised, by means of official missions, the recruiting, occupational selection and medical examination of agricultural workers in *Czechoslovakia* and *Rumania* for employment in France.

§ 3. — Regulation and Supervision

Preliminary Authorisation

In most countries whose law does not prohibit the creation of *private* organisations for recruiting national workers for employment abroad, or for introducing and placing foreign workers, it is held that these operations can only be satisfactorily supervised when undertaken by organisations or persons who are known to the authorities and have obtained a special authorisation from them. This authorisation takes the form of a permit or licence, which is issued only under certain specified conditions. In many cases persons applying for a licence must give at the same time certain particulars concerning the kind of work undertaken. It is a matter of particular importance for the authorities of the countries concerned that they should be able to ascertain whether the recruiting organisation is really the employer's direct representative, or merely an intermediary, for which the placing of workers in employment is primarily a business transaction.

In *Brazil* the Federal Decree of 31 December 1924 lays down that no private undertaking may take steps to bring immigrants into the country without having first obtained a special permit from the General Directorate of Land Settlement. All applications for a permit must be accompanied by a statement showing the number of persons and families recruited, the immigrants' nationality, their means, the places to which they are to go, the

employment offered them, the conditions of such employment (reciprocal benefits and obligations), and the guarantees provided by the recruiting agents.

In *China*, under the regulations concerning recruiting agents issued on 6 November 1936 by the Committee on Oversea Questions, such agents — whether private persons or organisations — must obtain an authorisation from the Committee.

In *Cuba* the Act of 11 July 1906, while allowing agricultural workers to be brought into the country under contract, provides that companies or private persons engaging such workers must be authorised to do so by the Government.

In *Czechoslovakia*, under the Emigration Act of 15 February 1922, collective engagement of workers for a European country may only take place with the authorisation of the State Labour Office.

In *France* the Act of 19 July 1928 introduced a new section (82 *a*) in the first book of the Labour Code, according to which no private person or group may engage in the recruiting for France and the introduction into France of colonial or foreign workers, the placing in France of foreign workers, or the recruiting in France of workers of any nationality for foreign countries or the colonies, unless an authorisation has first been obtained from the Minister of Labour, if the operations in question relate solely to industrial workers, from the Minister of Agriculture, if they relate solely to agricultural workers, and from both these Ministers if the operations relate at the same time to both agricultural and industrial workers.

The Decree of 20 April 1922, in establishing the schedule of conditions to be fulfillled by private persons or groups authorised to recruit and introduce foreign workers, laid down the particulars which must be given in each application for an authorisation, chief among which are the following :

(*a*) The nature of the organisation (occupational association, joint-stock company, employers' co-operative society, etc.) ;
(*b*) The precise name and address of the organisation ;
(*c*) Its capital ;
(*d*) The composition of the board of directors ;
(*e*) The countries where it wishes to operate ;
(*f*) The precise nature of the operations it proposes to carry out ;
(*g*) The names and references of the agents who are to represent it abroad ;
(*h*) The means at its disposal for transporting and selecting immigrants.

A copy of the rules of the organisation must be attached to the application.

Where a private person or single industrialist is concerned, only the particulars mentioned under paragraphs (*b*), (*e*), (*f*), (*g*), (*h*), need be furnished.

The application must mention the countries in respect of which it is requested, and the areas to which the applicants' activities might, if necessary, be extended, in order to enable the French authorities concerned, should occasion arise, to request any approved organisation to extend its operation to some particular country which was not included in the original authorisation.

According to this schedule of conditions, the authorisation to carry out collective labour recruiting in certain countries must not be regarded by the groups concerned as in any way conferring a monopoly upon them, the Government entirely reserving its right to grant the same authorisation to any societies or private persons complying with the relevant provisions, or to carry out recruiting itself.

In *Germany*, according to the Decree of 28 June 1935, the Institution for Employment Exchanges and Unemployment Insurance may authorise employment exchanges, other than those attached to the Institution, to recruit workers for employment abroad provided that the exchange offers every guarantee that it will observe both the spirit and the letter of existing and future regulations on the subject. The permit may be restricted to recruiting for certain specified countries, and made dependent upon certain conditions. Any institution or person not holding such a permit and wishing to recruit a German worker on its (his) own account or on behalf of a third party must obtain a special permit in each case from the Institution.

Under this Decree the Institution for Employment Exchanges and Unemployment Insurance authorised the German Labour Front, in 1937, to undertake the placing of workers and salaried employees abroad.

In *Italy* the Emigration Act of 13 November 1919 states that no one may recruit emigrants unless he holds a licence as carrier of emigrants *(vettore di emigranti)*. The conditions for granting the licence and for its renewal are laid down in special regulations.

In *Japan*, under the Emigrants' Protection Act of 1896 (as amended by the Acts of 1901, 1902 and 1907), any person wishing to act as an emigration agent *(imin toriatsukainin)* must apply for an authorisation from the Minister for Foreign Affairs, stating the address of the agency, the capital invested, the period within which the operations will be completed (where this has been fixed), the place of destination of the emigrants, and also the living conditions in that place. He must also specify the approximate number of emigrants to be recruited, the methods of recruiting and the conditions laid down in the contract, and also, in the case of a company, its capital and the names and status of its representatives in Japan and abroad, recruiters being forbidden to send emigrants to a country where they have no representative.

Agents recruiting emigrants under a contract with another person (a foreign employer, settlement society, etc.) must notify the terms of the contract to the authorities of the place in Japan in which they intend to recruit, and also to the authorities of the country of destination.

It should be noted that under the provisions of this Act the regulations relating to private recruiting agents do not apply to recruiting undertaken in virtue of special agreements concluded by the Japanese Government.

In *Poland*, according to the Legislative Decree of 11 October 1927, workers may not be engaged for employment abroad otherwise than after receipt of and in accordance with an official permit.

In *Portugal*, according to the Regulations of 19 June 1919, emigration agents, i.e. companies, undertakings, or private persons,

who recruit emigrants for foreign countries or colonies, or send them these, must hold a licence from the emigration authorities. This licence is issued when the authorities have approved a copy of the emigration contract, have received a statement of the number of emigrants to be recruited, the place to which they are to be conducted, and the work they will be called upon to do, and, lastly, when they have taken note of the guarantees submitted.

In *Yugoslavia* the Act of 28 February 1922 lays down that Yugoslav workers may not be recruited for foreign countries without an authorisation from the Ministry of Social Affairs.

Certain categories of applicants may be precluded, by law, from obtaining a licence. There is no need to dwell here upon disabling circumstances of a general character, as in the case of persons who do not enjoy full civic rights, who have undergone certain sentences, who are unable to show proof of good moral behaviour, etc. Sometimes, apart from disabilities of this kind, the law provides that licences may only be granted to nationals: this is so in *Japan*, for instance. Moreover, the occupation of recruiting agent is often declared incompatible with certain other occupations.

This is the case in *Austria*, where the Regulations of 27 June 1921 forbid transport companies to engage in the recruiting of emigrants; in *Czechoslovakia*, where the Act of 15 February 1922 likewise debars not only persons actively engaged in the recruiting of emigrants, but also those who have business relations with recruiting agents, from carrying on the occupation of transport agent or acting as a transport agent's representative; in *Hungary*, where the Act of 18 February 1909 states that persons engaging in the settlement or placing of workers in foreign countries are unfitted to hold a licence as carriers of emigrants.

The licence is granted for a specified period or for the recruiting of a specified quota; generally speaking, however, the issuing authority is entitled to withdraw it at any time, should the holder be guilty of a serious offence or of contravention of the legal provisions; sometimes, even, the licence may be withdrawn arbitrarily. In *Germany*, for instance, the authorisation to recruit workers for abroad, given by the Institution for Employment Exchanges and Unemployment Insurance, can at any time be recalled under the Decree of 28 June 1935.

In *Brazil*, under the Federal Decree of 31 December 1924, a recruiting agent's permit may be instantly withdrawn on his ceasing to carry out the obligations he has assumed.

In *China*, according to the Regulations of 21 April 1918, the licence may be withdrawn from an agent who is guilty of acts

contrary to the law or public safety, or engages in misleading propaganda, or ill-treats the workers.

In *France*, according to section 82 (*a*) of Book I of the Labour Code, the authorisation to recruit, introduce, and place foreign workers or to recruit workers in France for employment abroad may be withdrawn in case of contravention of the regulations by the Ministers of Labour or Agriculture.

In *Portugal* the Decree of 10 May 1919 and the Administrative Regulations of 19 June 1919 provide that an agent's licence shall be withdrawn if he becomes liable to penalty under the Emigration Decrees, promotes clandestine emigration, or fails to carry out the conditions of the emigration contracts. Moreover, reasons of State may warrant restriction or withdrawal of the licence.

Obligations

Organisations for recruiting, introducing and placing migrant workers are required under various legal or administrative provisions to fulfil certain obligations. These obligations vary according to the country, the volume of migration, and the policy adopted on the subject, and also, generally speaking, the nature and work of the organisation in question, and they range from the most simple conditions to the observance of very detailed requirements.

All these provisions cannot be systematically analysed here, for their implications often go beyond the scope of this report. Only a brief account of the most characteristic provisions will be given.

Government Supervision

The operations of the approved organisations must be supervised by the authorities concerned. In some countries certain operations may only be carried out through official bodies or in the presence of their representatives. Sometimes emigration countries appoint agents whose special duty it is to supervise all the operations carried out at the collecting stations for emigrants. Immigration countries (e.g. France) have the operations in the workers' countries of origin supervised by their missions or special agents residing abroad for this purpose.

In *France*, according to section 82 (*a*) of Book I of the Labour Code, the Ministers of Labour and Agriculture may at any time ascertain whether the operations of bodies authorised to recruit foreign workers for France, introduce such workers into the country or recruit in France workers for employment abroad are being

carried out in the proper manner. A circumstance which in French territory makes this supervision easier is that the main distribution centres for immigrants, where the approved organisations carry out a large part of the placing operations and of the arrangements for directing the workers to their employment, are administered by the French authorities; an important centre of this kind is that at Toul, for receiving, housing, and directing to their employment foreign workers arriving from Eastern Europe.

The supervision of the organisations' activities in the territory of the emigration countries was exercised in the years following the war, during which emigration to France took place on a vast scale, by French official missions established for this purpose in the chief emigration countries.

In *Poland*, according to the Act of 11 October 1927, the engagement of Polish workers for employment abroad must, as was mentioned above, be effected through the Polish authorities. All selecting and engaging operations take place in the presence of the Polish officials responsible for such supervision. The Ministry of Social Welfare maintains emigration inspectors at the centres where emigrants are assembled and housed before departure.

In conformity with the Franco-Polish Protocol of 17 April 1924, it is the special duty of the emigration inspectors who work in touch with the French employers' delegations to ensure contact between these delegations and the Polish authorities as regards the various recruiting operations; the inspectors are present at the medical examination, vocational selection, engagement, lodging, the signature of the contracts, and the organisarion and excution of the transport arrangements from the point of departure in Poland to the distribution centre in France [1].

The officials appointed for this purpose by the Polish authorities may not take action with regard to these operations, but they forward their observations to the emigration authorities, who then take any necessary steps.

Security

In order to guarantee the due fulfilment of their obligations, private recruiting and placing organisations are often required to deposit a security, in a form accepted by the competent authority.

In *Brazil*, in the State of *São Paulo*, according to the Decree of 9 July 1913, any person applying for authorisation to bring immigrants into the country as settlers or workers may be required to deposit security equal to the whole or part of the cost of the passage of the immigrants engaged, in order to ensure that the particulars given concerning the immigrants are true; the deposit may be refunded after the immigrants have arrived and the particulars given in the application have been verified.

In *China*, under the Regulations concerning recruiting agents issued on 6 November 1936 by the Committee on Oversea Questions,

[1] See also below, pp. 59.

reeruiting agents are required to deposit a eash seeurity of 2,000 dollars if the number of workers to be reeruited is less than 200, 5,000 dollars if it is from 200 to 499, 10,000 dollars if it is from 500 to 999, and 20,000 dollars if it is from 1,000 to 1,999. If the agents are to reeruit 2,000 workers or over, the amount of the seeurity is fixed by the Committee.

In *France*, under the Deeree of 20 April 1932, persons or groups authorised to recruit or introduee foreign workers may be required to deposit a seeurity by the Ministers of Labour or Agrieulture, who fix the amount in eaeh ease.

In *Japan*, aeeording to the Emigrants' Proteetion Aet, as codified in 1907, and the Regulations issued in applieation of this Aet, the seeurity to be deposited is fixed by the administrative authorities, but may not be less than 10,000 yen.

In *Portugal* the Deeree of 10 May 1919 lays down that emigration agents must deposit a seeurity of 6,000 eseudos.

Administrative Fees

Organisations for recruiting or introducing migrant workers are sometimes required to pay a lump sum by way of fee on the issue of the licence; sometimes a fee must be paid for each worker engaged; sometimes, even, both kinds of fee are due. These fees are in most cases intended to cover part of the expenses of the emigration services.

In *Italy*, aeeording to the Aet of 13 November 1919 and the Deeree of 6 Mareh 1923, the granting of a lieence to recruit emigrants for European or oversea eountries is subjeet to payment of a fee of 20 lire per emigrant. In addition, in the ease of reeruiting for European eountries, reeruiting agents must pay a fee of 5 lire per worker recruited.

In *Portugal*, under the Deeree of 19 May 1919, emigration agents are required to pay 500 eseudos for eaeh annual lieenee.

Fees are sometimes fixed by bilateral agreements.

Under the provisions of the *Germano-Polish* Agreement of 24 November 1927, the German Engagement Serviee is required to pay the Polish authorities, in respeet of plaeing expenses, a eertain sum per worker engaged, the amount of whieh is fixed by agreement.

The Agreement eoneluded between *Czechoslovakia* and *Germany*, dated 11 May 1928, lays down that the German Central Offiee for Workers must pay a similar fee, also in respeet of plaeing expenses, to the Czeehoslovak employment exehange eoneerned.

In aeeordanee with a clause of the *Franco-Polish* Protoeol of 17 April 1924, the Freneh General Immigration Soeiety pays the Polish emigration authorities a fee (fixed at an Ameriean half-dollar for eaeh worker engaged), whieh goes to a speeial fund administered in Poland by the Polish authorities, and intended solely for private relief soeieties for Polish workers who have emigrated to Franee and their families.

Recruiting or Transport Fees

In some countries the fees which the organisations which recruit foreign workers or bring them into the country charge the employers — or, more rarely, the workers — must be specified in a fixed scale, which must be submitted to the Government for approval [1].

Sometimes law or administrative practice makes the granting of a licence conditional upon an undertaking not to charge the emigrants any fee, or lays down a maximum limit for the fee.

In *France*, in accordance with the schedule of conditions to be observed by organisations authorised to recruit and introduce foreign workers (Decree of 20 April 1932), such organisations must adhere strictly to the scale of charges for the introduction of foreign labour given in their application for authorisation.

The fees charged to the employers, which must be approved by the Ministry or Ministries concerned, must, in accordance with the schedule of conditions, be so calculated as to cover the following items:

(1) Various expenses incurred in carrying out the operations of recruiting, selecting, housing, transporting and distributing immigrant workers, and supervising the conditions of their employment;

(2) General expenses, financial and administrative costs of all kinds;

(3) Redemption of debt at the rate usually allowed by the Treasury;

(4) Constitution of the statutory reserve, where necessary;

(5) Return on the capital invested provided that such return must be limited in the aggregate by the rules of the organisation and may not exceed 8 per cent. per annum, and that any excess may not be carried foward;

(6) Constitution of reserves, within the limits fixed by the administrative authorities after hearing the organisation in question.

In calculating these reserves, account will be taken of the amount of the capital if the organisation is a limited liability company with a fixed capital, or in other cases, of the amount of the general expenses indispensable for the working of the organisation and for maintaining its activities, assuming recruiting operations to be suspended for a period of at least three years.

In no case, even in the event of liquidation, may the reserves be distributed among the shareholders, who are only entitled to a refund of the capital they have invested in the organisation.

Any change in the fees must likewise be approved by the Ministry or Ministries concerned. The application for making such a change

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[1] The regulations relating to the expenses incurred in directing workers to their employment, which form a part of the transport expenses, are considered in another connection in § 5 of this chapter.

must be accompanied by a statement of the grounds on which it is considered necessary. The proposed change takes provisional effect until the final decision has been given. Should, however, the application be rejected, the organisation must thereupon refund that part of the fees which has been unduly charged.

When as the result of a financial year's working a surplus is available, this must be distributed to the members, in the case of an association consisting solely of employers and operating on their behalf only. In all other cases, the surplus is placed at the disposal of a committee consisting of representatives of the agricultural and industrial employers making use of the organisation, to be appointed by the Ministries concerned on the recommendation of the most representative organisations. This committee allots the surplus either to charitable societies of a general character concerning themselves with immigration, or else to the above-mentioned employers themselves, by way of a refund. Where the amount of the surplus thus recorded at the end of a financial year represents more than 25 per cent. of the total fees collected during the year, the existing fees must be revised, after consultation of the committee mentioned above. Similarly, where the results of a financial year have not been sufficient to meet items (1), (2), (3), (4) and (5) in the list above, the fees must be revised in the same manner. Each revision must be submitted for approval to the Ministry or Ministries concerned.

According to the schedule of conditions the authorised organisations may not make any charge on the immigrants themselves, whether in the form of dues, fee or security. Immigrants may only be charged for expenses incurred in transporting and housing them, and in accompanying them on their journey, in those cases where, in execution of the provisions of standard contracts of engagement or under an agreement freely concluded with the employer, the immigrants travel at their own expense.

In *Japan* the Emigrants' Protection Act lays down that under no pretext may a recruiting agent receive any money from emigrants, other than the prescribed fee. The amount of this fee must be approved beforehand by the Japanese administrative authorities and must be stated in the emigration contract.

Appointment of Staff

The law of some countries prescribes that the staff of organisations for recruiting and placing migrant workers must be approved by the competent authorities, or, at any rate, that appointments to the staff must be notified to them.

In *Belgium*, for instance, where recruiting agents are subject to the same regulations as transport undertakings, they are entitled under the Order of 25 February 1924 to appoint sub-agents in Belgium authorised to engage emigrants; the sub-agents must be legally appointed by the licensed head of the undertaking and be approved by the local authorities; their appointment is only valid for one year.

In *France* the Decree of 20 April 1932 lays down that organisations authorised to recruit and introduce foreign workers must submit to

the Ministries concerned for approval, and must notify to the Inter-Ministerial Permanent Immigration Committee, the names of the agents by whom they wish to be represented abroad, together with references. If these agents are approved, the Ministries of Agriculture and Labour take any steps which may be necessary to ensure that they shall be in a position to carry out their duties.

Approval of agents to represent the recruiting organisations at the distribution centres for foreign workers in France must be requested in the same form.

In *Japan*, if a recruiting agent wishes to appoint an agent, he must apply to the Minister of Foreign Affairs for a permit, stating the powers to be conferred on the agent and his previous record. The appointment of subordinate staff employed in the offices or branches of the undertaking must be approved by the local government. Such approval is personal ; any change owing to resignation, death, etc. must be reported, and the licence of an authorised agent or employee must be returned to the administrative authorities when he leaves the undertaking. The authorisation may be withdrawn at any time in the case of breach of the regulations.

Identification of Employers

The obligation on the part of recruiting or placing organisations to act only on behalf of known and personally identified employers carries with it a real guarantee for the workers and the countries concerned. When workers are engaged and sent abroad on behalf of unknown employers they are exposed to serious abuses, and the competent authorities are not so well able to exercise supervision.

Since recruiters are obliged to submit applications for workers to the authorities before any recruiting takes place, it follows that they must state the employer's name, his address, the place where the work is to be done and the nature of the work, etc., for without such particulars the authorisation would be refused.

In certain cases, however, in which it is difficult, owing to the large number of applications received and the period over which the operations are to extend, to determine beforehand exactly to which employer the worker will be allotted, the employer's name is not specified until after the emigrant's arrival in the country of destination.

This happens in the case of certain categories of Polish and Czechoslovak workers recruited for *France*. According to the Franco-Polish Protocol signed on 3 February 1925, concerning the regulations for immigration of Polish workers to France, to work in the coal mines or in agriculture, in cases where it is impossible to state that a worker will be sent to a specified undertaking, the contract is drawn up in Poland with this particular omitted, but must nevertheless

state the remuneration and living conditions secured to the worker whatever the undertaking to which he is sent. It is, of course, understood that in no case may the worker be sent to an undertaking which does not fulfil the conditions prescribed in the Franco-Polish Emigration and Immigration Convention. The representative who signs the contract is responsible in this case for the worker's engagement. As soon as it has been finally decided to which undertaking the worker is to be sent, the representative must notify its name to both the French and the Polish authorities.

The disadvantage of this system is that it leaves the worker in a foreign country, which he may never have been in before, without sufficiently guaranteeing him the possibility of proceeding against his employer, for it is possible that the latter may in actual fact refuse at the last moment to sign the contract corresponding to the application previously made by him. Various cases of this kind have occurred, and they often involve the immigrant in difficulties, whether he has to be repatriated or whether another job has to be found for him in the immigration country. The system also makes it somewhat difficult for the authorities of the emigration country to suspend the sending of workers to employers who, in the opinion of the authorities, deserve such a penalty, on account of the unsatisfactory conditions on which they employed the workers they had previously introduced.

Supplementary Authorisation for Each Operation

Where a licence is granted for carrying out within a fixed period an unspecified number of recruiting or placing operations on behalf of several employers, a special authorisation for each operation is often required in addition to the general licence.

This is especially the case in countries which, apart from regulating the activities of recruiters or importers of foreign labour, require each separate application for foreign labour and each proposed contract of employment to be submitted to their authorities for examination and preliminary authorisation.

The different laws and regulations imposing such obligations will not be indicated here, since this point is dealt with in the chapters concerning the presenting of applications [1] and the conclusion of contracts [2].

In *China* the twofold obligation to hold a general licence and to obtain a special authorisation for each operation is explicitly and clearly stipulated. According to the Act of 21 April 1918 and the Regulations of the same date, in addition to the recruiting licence, a special authorisation is required for each recruiting operation; when applying for this, the agent must state the place where the workers will be recruited, the country and place where they will be employed, the nature of their work, and their total number. He must also lodge duplicates of the contract concluded between himself and the employer, and of that to be concluded between the employer and the workers.

Regulation of the Methods employed in finding Workers

The methods employed by recruiting agents for finding workers and the publicity they engage in for this purpose are often made the subject of more or less detailed regulations. These may be either positive, as when they impose on persons recruiting foreign labour certain duties as to the information that must be supplied to migrants, or negative, as when they forbid the recruiting agents to engage in certain forms of propaganda, or require them first to submit their propaganda to the authorities for approval.

The regulations on this subject belong to the preceding chapter, which deals with the question of supplying migrant workers with information. They need not be further discussed here.

Approval of Contracts

The contracts proposed by recruiting agents to the workers they wish to engage [1] must as a rule be first submitted to the competent authorities for approval. Sometimes the individual contract concluded with each worker engaged must be endorsed before the worker may be started on his journey to the country of immigration.

In *China* the Act of 21 April 1918 states that all contracts relating to Chinese workers, except those made by the Government itself or concluded under an agreement between the Chinese Government and the country of immigration must be submitted to the Emigration Office for approval.

In *France*, where foreign workers are usually introduced on the basis of model contracts, drawn up in most cases by agreement between the French authorities and those of the countries of emigration, these contracts are examined and endorsed by the French

[1] With regard to contracts of engagement or employment, see below p. 85.

authorities before any operation for recruiting or introducing workers takes place. The schedule of conditions to be observed by organisations for recruiting and introducing foreign workers which was established by the Decree of 20 April 1932 makes it compulsory for these organisations to fulfil the prescribed formalities regarding endorsement of contracts, before the immigrants are sent to the bodies responsible for recruiting.

In *Italy*, according to the codified text of the Emigration Acts (13 November 1919), recruiting of emigrants for a foreign European country must be based upon a written instrument. This contract must be drawn up in accordance with the model attached to the original licence issued to the recruiting agent and must be approved by the emigration authorities.

Further, contracts of employment drawn up abroad must be endorsed by a diplomatic or consular representative.

In *Japan* recruiting agents must conclude a written contract with each of the emigrants, whether recruited individually or collectively. The clauses of the model contract must first be approved by the administrative authorities.

In *Poland*, under the Act of 11 October 1927, every worker engaged for employment abroad must before his departure receive a contract drawn up in accordance with a model approved in each case by the emigration authorities. Contracts drawn up abroad must be endorsed by the Polish consular authorities.

The contracts of workers recruited collectively for France are endorsed before their departure by the Polish emigration inspector and by the representative of the French Ministry of Labour.

In *Portugal*, according to the Decree of 19 June 1919, recruiting or even mere propaganda in favour of individual or collective emigration are prohibited as long as the Government has not approved the principal clauses of the contract under which the emigration is to take place.

Repatriation of Workers

The law of emigration countries and also sometimes that of immigration countries requires the organisations responsible for recruiting, introducing or placing foreign workers, to carry out the repatriation in certain specified cases of the workers they engage. The regulations on this subject are described in the chapter of this report which deals with the problem of repatriation.

Resolutions adopted by International Conferences

The question of organisations authorised to carry out recruiting operations, and also that of Government supervision of such operations, were first raised in the international field in 1921 by the *Conference of Emigration Countries*, held

at Rome. The Conference adopted two resolutions on this subject, urging respectively :

That recruiting of workers for foreign countries should be subjected in all countries to previous authorisation by the authorities of the State,

That recruiting operations should only be carried out by means of employment and emigration offices instituted or supervised by the State.

The Conference further recommended that representatives and agents of undertakings engaging in the recruiting (as also the transport) of emigrants :

(*a*) should be nationals of the country ;

(*b*) should only engage in such work in virtue of a licence issued by the Government ;

(*c*) should deposit a security in respect both of themselves and of each of their agents or sub-agents ;

(*d*) should remunerate their employees and agents by fixed salaries and not by commission ;

(*e*) should renounce, as concerns themselves and their agents, the undertaking at the same time of other occupations and offices declared incompatible by law ;

(*f*) should enter as a matter of course in the emigration contracts any binding clauses prescribed by the law of the country.

Shortly afterwards, also in 1921, the *International Emigration Commission*, convened by the International Labour Office, recommended that if and when bilateral Conventions are concluded in pursuance of the Washington Recommendation concerning collective recruiting[1], or where collective recruiting takes place in another country, the following principles should, *inter alia*, be borne in mind :

(1) Inspection and supervision by the competent authorities of the two States concerned, each on its own territory ;

(2) Recruiting operations should be carried on exclusively through the medium of offices or agents authorised by the competent authorities of the States.

In 1924 the *International Emigration and Immigration Conference*, held at Rome, reached conclusions concerning the

[1] See Introduction, p. v.

previous authorisation of recruiting and the carrying out of recruiting operations only through the medium of offices instituted or supervised by the State, which were similar to those adopted by the 1921 Rome Conference.

In 1928 the *Second International Emigration and Immigration Conference*, held at Havana, recommended that " the recruiting of workers for foreign countries and the placing in employment of alien workers should be carried out either by public bodies or by private organisations duly authorised by the Governments and subject to their strict supervision, and that institutions working for profit should be forbidden to engage in such work ".

In 1926 the *International Labour Conference*, at its Eighth Session, adopted a resolution whereby it declared itself in favour of the principle that the finding of employment for foreign workers should be undertaken solely by public institutions or by organisations not aiming at making profits, operating under the supervision of the public authorities.

Lastly, there is the Convention concerning fee-charging employment agencies which the International Labour Conference adopted at its Seventeenth Session in 1933. Under this Convention, fee-charging employment agencies may only place or recruit workers abroad if permitted to do so by the competent authority and if their operations are conducted under an agreement between the countries concerned. The Convention also makes fee-charging employment agencies subject to the supervision of the competent authority, forbids them to make any charge in excess of the scale of charges fixed by that authority with strict regard to the expenses incurred, and provides for the abolition of fee-charging employment agencies conducted with a view to profit.

It may be noted also that the problem of the bodies responsible for the recruiting and placing of foreign workers has occupied the attention of certain unofficial conferences, and especially of the trade union organisations' congresses, e.g. the *Conference of the International Federation of Trade Unions*, held at Prague in 1924 ; the Extraordinary Congress of the Belgian Trade Union Committee, held at Brussels in 1926, and the *World Migration Congress*, convened by the International Federation of Trade Unions and the Labour and Socialist International and held at London in 1926.

The resolutions passed at these meetings go further than those of the official international conferences. The World Migration Congress in particular demanded that all private migration agencies should be abolished and that recruiting and placing operations should be carried out by official bodies, on which the trade union organisations should be adequately represented.

§ 4. — Selection

Aim and Criteria of Selection

The word " selection " is used to describe a fairly large variety of operations. Some of these are undertaken by the emigration country, and aim at eliminating from among the emigrants persons whose departure appears undesirable from that country's point of view. The criteria determining such elimination depend on the country's emigration policy. They may be purely administrative — the object being, for instance, to prevent the departure of persons who are liable to military service, who have received a sentence which they have not yet served, who have not paid their taxes, etc. They may also be social in character, when the aim is, for example, to eliminate persons who do not appear likely to withstand the difficulties inseparable from residence in the immigration country concerned, or to ensure the maintenance of their families who remain behind in the emigration country ; or again, the aim may be to give destitute persons a priority for engagement abroad.

An example of social selection is to be found in the measures in *Poland* and *Yugoslavia* under which persons whose income is sufficient for their maintenance, may not be engaged for seasonal employment in Germany, except where the fixed quota cannot be completed from among applicants without means ; and in the *Polish* measures prohibiting the engagement of women for placing singly in employment in France if they are unable to write (as this might prevent them, in case of need, from sending complaints to the appropriate authorities), and the engagement of married men who do not promise to send for their families later on.

Sometimes the authorities of the emigration country organise a measure of medical inspection, in order to reduce the number of persons who fall ill and may have to be sent to hospital or repatriated either at some stage of their journey or on arrival in the country of destination.

In *China*, under the regulations concerning the contract of employment issued by the Oversea Questions Committee on 6 November 1936, all Chinese workers ready to go abroad are required to undergo medical examination.

In *Czechoslovakia* emigrants are medically examined before leaving. An emigrant is rejected if the examination shows that sailing would endanger his own life or the health of his fellow-travellers. Provision has also been made for medical inspection at the frontier collecting station for the purpose of ensuring that an emigrant's physical or mental state will not be an obstacle to his admission to the country of destination. Further, emigrants must procure a medical certificate at their place of residence to the effect that they do not come from an infected district.

In *Japan* emigrants are collected before their departure in an emigrants' home at Kobe, where they undergo a medical examination, vaccination, disinfection, etc.

In *Poland* the same measures are taken in the centres maintained by the Emigration Office in the case of all emigrants leaving for oversea countries.

Besides the selection carried out by the emigration country, the authorities of the immigration country reserve the right to reject from among the persons seeking admission those who do not fulfil the conditions laid down in the immigration regulations. Here, too, the criteria for rejection may be administrative (as in the case of persons who have previously been expelled from the country, who have undergone sentence, etc.), social (illiterate persons) or medical; they may also be of a racial character, or purely political. As these regulations relate to immigrants in general, and not only to workers, it does not appear necessary to analyse them here.

Lastly, by selection is meant that phase of the recruiting procedure which ends in a choice of the candidates considered qualified to hold the jobs to be filled in the immigration country. Selection here has nothing to do with the measures applying to all emigrants and aiming at prohibiting the departure from or admission to the country of persons who do not fulfil the conditions laid down in the country's regulations. It consists in the actual choice made, from the point of view of the employer's needs, from among prospective migrants whose emigration, as also their admission to the country of immigration, is allowed.

The criteria for this choice are essentially occupational and medical. Occupational selection aims at choosing workers whose technical aptitudes and experience correspond to the employers' requirements. It is undertaken either by the

employers' representatives (i.e. in most cases by special private organisations) or else, and especially in the case of oversea emigration, by the representatives of the immigration countries, consuls or immigration agents. Medical selection aims at eliminating candidates whose state of health or whose constitution makes it unlikely that they will be able to adapt themselves to their future working conditions. Like occupational selection, it is undertaken by representatives of the employers or else of the immigration countries. Sometimes it consists only in an obligation on the worker's part to submit a medical certificate to the consular office of the immigration country.

Sometimes, as noted at the beginning of this chapter, the selection made from the point of view of the employer's needs is a more or less separate operation, distinct from recruiting proper. This is seen in countries which, like *Poland*, reserve recruiting exclusively to official bodies, but allow selection to be carried out by the employers' representatives, under the supervision and in the presence of these bodies. The word "recruiting" then connotes only the preliminary operation, by which the authorities of the emigration country enter would-be emigrants on their lists, while making sure that their departure is permissible, whereas the word "selection" covers all the subsequent operations in which the agents either of the immigration country, or of the employer, or of an intermediary, and with or without the active assistance of an agent of the emigration country, sort out, examine and accept or refuse the persons already "recruited".

Organisation of Selection

The diversity of the selection operations, of the interests which are involved, and of the bodies which take part in them raise several problems of organisation from the worker's point of view.

First, and among the most important, there is the question at what stage, and at what place the worker is to undergo the formalities as a result of which he is either accepted or refused. Selection by the emigration country is naturally made before the emigrant's departure and presents no difficulties in these respects. The selection formalities for admission to the immigration country were at one time carried out at that country's

frontiers ; some of these formalities are now carried out elsewhere. In order to obviate as far as possible the complications and expense which ensue when would-be immigrants are rejected in countries remote from their own, the immigration countries are to an increasing extent organising preliminary examinations in the country of origin or of departure (ports of sailing).

Obviously official supervision and selection services can only be maintained on the territory of another country under an agreement between the two countries concerned, and it has sometimes happened that a country has refused to allow its emigrants to be selected on its own territory by representatives of the country of destination or by foreign employers. Generally speaking, however, the number of agreements of this kind is tending to grow, since it is possible in this way to obviate many complications for the authorities of the two countries, and also to spare immigrants many disadvantages and indeed suffering. Transport undertakings for their part are more closely concerned than anyone in ensuring that emigrants transported by them shall not be liable to rejection, which would involve themselves in considerable expense — the law of immigration countries, as also that of emigration countries, making these undertakings responsible for the repatriation of immigrants who are rejected at the frontier, particularly in the case of transport by sea.

From the point of view of the interests of migrant workers and their families, it is not enough for the selection to be made before departure : it should also be made as near as possible to their place of residence, and in such a way that they need not make preparations for departure until after having been accepted. Would-be emigrants should be spared the distress and material loss which they suffer when, after having sold their goods and often even their small holdings, and made all sorts of preparations, many of them complicated and costly, they are informed at the end of a long journey that they are rejected and must go back whence they came.

Nevertheless, the examination before departure is only preliminary ; the countries of destination do not yet seem ready to agree that it should be absolutely final, and the authorities of the place of arrival reserve the right to refuse an immigrant who has been accepted at the first examination. It is true that the examination on arrival is, as a rule, greatly

simplified by the examination before departure; it is often only intended to verify that the results of the preliminary examination, and the immigrant's present condition, correspond. The fact remains, however, that sometimes a fairly large number of persons may be refused in the final selection, even where the selection before departure was itself preceded by a preliminary examination near to the emigrant's place of residence. A series of successive examinations does not *ipso facto* safeguard the emigrant against the danger of refusal at some subsequent examination, and of possible rejection at the frontier of the immigration country, as is shown, for instance, by those cases in which the United States and Canadian authorities have refused to admit the whole of a group of immigrants, all of whom had been examined before departure. Similarly, there have been cases of Polish workers emigrating to France who, after having had two medical examinations by French representatives in Poland, have been found unsuitable at a third medical examination at the French receiving centre at Toul, or even at a fourth examination after they have passed through Toul made at the request of the employer at the place where the immigrant is to work.

For protecting the migrant's interests, it is not enough, therefore, to organise all the selection operations before departure and as near as possible to his place of residence, unless these operations are so carried out as to reduce to a minimum the risk that the decision taken at the first selection will be reversed at a subsequent stage. This is a second problem of organisation.

The haste of selection agents has often been criticised, but up to a point haste is inevitable and even desirable. It must be remembered that prompt handling of applications for workers, which is indispensable to the efficient working of employment services in the national sphere, is absolutely imperative in the case of international placing, where weeks and months may elapse between the submission of the employer's application and the workers' arrival. Moreover, as has been found in practice, there is no reason why a selection carried through quickly should not at the same time be quite satisfactory, provided that the selection services are strengthened and, in particular, that the agents' abilities and the number of agents employed are adequate for the work.

Still more important than promptness, indeed, is accuracy. Hence the need of choosing the right method in selecting emigrants. Selection agents are sometimes accused of being too inclined to regard their work on strictly commercial lines and to treat the emigrants as commodities for sorting and grading. Too often, also, the selection appears to be based on purely superficial conceptions, and to pay too little attention to human factors like the emigrant's character, cultural needs and family circumstances. These, however, are psychological factors on which the success of the placing operations may frequently depend.

As an instance of an attempt to organise selection on more individual lines, reference may be made to the interesting experiment which the *Polish* Government engaged in a few years ago, with a view to instituting a psychotechnical selection, useful both from an occupational and from a social point of view.

It must be admitted that the emigrant himself does not facilitate the task of the selection agent. Often he has only one thought — emigration at all costs. He rarely bothers to learn anything about his future life, and even if he is correctly informed, his desire to emigrate will sometimes lead him to lie about his past or his occupational qualifications, so as to secure acceptance.

All these shortcomings and grievances are reduced to a minimum in cases where the selection has been preceded by a special training of the emigrants, of which it represents no more than the successful outcome. Owing to the cost of such training and the time that must be spent on it, this system has as yet been but seldom followed.

In *Great Britain* a selection system of this kind was tried in the case of emigration to the Dominions. A certain number of emigrants were received in training centres, organised for the vocational training and selection of four different classes of emigrant — single men going as settlers, women undertaking household work, boys going to agricultural work, and families leaving as settlers. After several weeks' practical agricultural work in these centres, persons who did not appear likely to be able to adapt themselves to their future working conditions were eliminated.

Similar training was given in *Italy* through the emigrants' vocational courses [1] organised up to 1927 by the General Emigration Commission. Since, however, these courses were given quite apart from any recruiting procedure for emigrants, and represented only a preliminary measure in the organising of migration in general, they could not be linked with any definite work of selection as was the case in Great Britain.

[1] Cattedre ambulante d'emigrazione.

Finally, there is the problem of who is to be responsible for the results of the selection. In most emigration and immigration countries, recruiting agents or transport undertakings are obliged by law or established usage to bear the cost of the emigrant's return to his home, except in the event of his having been found guilty of fraud. The stipulations on this subject will be described below in the chapter concerning repatriation. As regards compensation for the loss in which a worker may be involved through mistaken selection, the obligations of the selection organisations have not been clearly laid down in the existing laws and agreements. These obligations depend upon the stipulations of civil law; since, however, the proceedings it is open to the persons concerned to take are both lengthy and costly, they but seldom resort to them.

Selection Procedure

The organising of selection by the immigration country and by recruiting agents in the territory of the emigration country has led to various kinds of agreements. Where the only selection operations taken into account are those carried out by the emigration country and the immigration country to ensure that the migrant worker fulfils the relevant requirements of each country's national regulations, the agreements concluded on this subject are fairly simple. Where, however, besides these operations the selection made by a recruiting body is also covered, the procedure prescribed in the agreements is often very detailed. This is especially the case where States have concluded bilateral treaties for organising migration movements between their respective territories. In the absence of such a treaty the emigration country sometimes concludes an agreement directly with the employers' organisation of the immigration country to which the selection is to be entrusted. Various instances of selection procedure as established under agreements of these various kinds will be described; it must be remembered, however, that in several of these instances the procedure in question has not been made use of for several years, owing to the migration it concerns having ceased.

Selection of Emigrants in general

The selection procedure for emigrants in general as distinct from workers who have been specially recruited will be

considered very briefly. Here the aim is more especially to eliminate sick, infirm or otherwise undesirable persons. The medical examination is made either by the emigration authorities of the one country or, if they have the necessary powers, by the immigration authorities of the other. The examination by immigration authorities (consuls or special officials) also extends to the other conditions required for admission of immigrants.

In *Australia*, under the Immigration Act, 1901-1925, the Governor-General may establish Commonwealth medical offices outside the Commonwealth. The Minister may appoint duly qualified medical practitioners to be medical referees either outside or within the Commonwealth. An intending immigrant must be examined as to his physical and mental fitness by a medical referee, and must answer the authorised list of questions put to him by the referee, who if he is satisfied that the intending immigrant is of sound health, issues a certificate of health on payment of a fee. If an intending immigrant embarks at a place where there is no medical referee, the examination is carried out by the ship's medical officer. If the medical referee or the ship's medical officer is not satisfied that the intending immigrant is of sound health, the Chief Medical Officer of the Commonwealth Medical Bureau may issue the certificate, but he may not issue a certificate to any person believed by him to be suffering from a disease or disability mentioned in the Act or Regulations.

All " assisted " immigrants from Great Britain have to obtain a certificate from a medical referee before a reduced passage is granted, and must also be approved by the Director of Migration and Settlement in London in respect of their suitability for the work they are going to undertake in Australia.

An example of a particularly detailed examination is furnished by the *United States*. The Immigration Act of 1924 requires an emigrant applying for an immigration visa for admission to the United States to supply a great deal of information of all kinds. The consular agent makes him sign an application and swear to the truth of his statements. The United States has concluded agreements with a number of countries for the medical examination of intending immigrants by American officials before the immigration visa is granted. Immigrants who have passed this examination do not have to go to the immigration station at Ellis Island, but are admitted after a relatively simple examination at the landing stage. The selection methods, especially the mental tests, have often been criticised. In particular it is said that they are somewhat arbitrary and also that an emigrant who successfully passes them is not guaranteed against rejection upon arrival in the United States. It has also been admitted that such arrangements make no provision for a selection from an occupational point of view.

An immigration inspection service functioning in Europe has also been organised by *Canada*. In 1932 emigrants were examined by Canadian inspectors not in their countries of origin but at the ports of sailing : Antwerp, Hamburg, Paris and Rotterdam. Since 1935 Polish emigrants to Canada have been selected by a Canadian

inspector residing at Warsaw. The Report of the Department of Immigration and Colonisation for the Fiscal Year 1931-1932 mentions that during this period 264 persons were refused admission into Canada at the port of entry as against 10,865 admitted.

Selection under Bilateral Agreements

The selection operations are of most importance when they take place under recruiting systems organised by bilateral agreements, the authorities of the two countries concerned, and possibly also the employers' representatives, being called upon to co-operate directly in the operations.

As already mentioned at the beginning of this chapter, the provisions on the subject contained in the treaties concluded by *France* with *Poland*, *Czechoslovakia*, *Hungary*, *Rumania*, *Austria*, *Yugoslavia* and *Spain* lay down that workers recruited solely through the authorities of the respective emigration countries are, before their departure, to be " accepted and classified, or else refused ", either by an official mission of the French Government or by a representative of the employer concerned or of an employers' organisation.

The *Franco-Polish* Protocol of 3 February 1925 also states that the employers' representative must operate under the supervision of the official French labour mission and that French employers may ask this mission to select workers for them.

Out of these provisions has grown up a complete system of selection and engagement. This is examined below, by way of example, in its application to Polish emigration to France.

The French employers are represented in Poland by an agency of the General Immigration Company, which collaborates with the Polish authorities in the recruiting and selection of Polish emigrants. It has been seen above that applications for workers from French employers are forwarded through diplomatic channels to the Polish authorities. The Ministry of Social Assistance distributes the applications among the different public employment exchanges, whose duty it is to bring before the French recruiting agent workers who are willing to emigrate. The agency of the General Immigration Company receives from the Polish authorities the list of employment exchanges responsible for recruiting. It gets into touch with these with a view to settling the technical details of the operation, and in particular the date of recruiting and number of workers to be presented. This last figure is fixed having regard to the average proportion of rejections in medical examinations.

The actual selection is carried out in two stages. The Polish authorities publicly announce the date of recruiting by means of posters or other forms of publicity. A preliminary selection is made by the public employment exchanges, in the presence of an agent of the General Immigration Company, from among the persons presenting themselves. The examination includes identity papers, military permits, etc., occupational qualifications, and the emigrants'

state of health. The representatives of the Polish authorities verify the emigrants' statements as to their personal and family circumstances, while the employers' agents and the doctors of the French mission take part in the occupational and medical selection. On an average the doctors have rejected 40 per cent. of the applicants in this first examination.

The workers accepted are sent to the engagement centre, furnished with an introduction from the public employment exchange, their identity papers, and possibly their certificates or employment books. They then undergo their second occupational and medical examinations, much stricter than the first. Those accepted are sent to the collecting centre and those rejected are given a voucher for their travelling expenses from the locality of the public employment exchange to the engagement centre and back again. The employment exchanges also give them vouchers for half-price tickets to their homes.

Mr. André Pairault [1] has given some interesting particulars of the procedure for the selection of Polish emigrants for France. He states that in 1924 the doctors rejected all weakly persons, cripples, and persons suffering from hernia, varicose veins or infectious diseases, or whose eyesight was less than 50 per cent., etc. At the engagement centre of Myslowice the proportions of persons rejected in 1924 to the total number of persons examined were as follows: miners 9.3 per cent., industrial workers 6.4 per cent., agricultural workers 5 per cent. The occupational selection is made by specialists familiar with the technique of the various trades. The examination of the employment certificates and similar papers is supplemented by interrogation of the emigrant concerning his previous occupations, the technique of his stated occupation, etc. Very often also the specialist can form an opinion of his occupation from outward signs: state of the hands, occupational deformities, etc. The occupational examination is followed by a few general questions intended to give an idea of the subject's intelligence.

Each selection agent signs a control form for every worker accepted by him, so as to provide a means of identifying agents who have engaged workers not properly qualified for the occupation in question.

The selection operations for *Polish seasonal emigration into Germany* differed appreciably from those just described. From the occupational standpoint, Polish emigration into Germany was much more homogeneous than that into France and in addition was restricted to a few months of the year. Consequently, occupational selection, and in fact the whole engagement procedure, could be simplified, and the more so since many of the workers went to Germany year after year. The procedure was as follows. After registration of the applications, the Polish authorities, in agreement with the German Central Office for Workers [2], fixed the place and time for the operations and publicly advertised them. The German Central Office sent into the recruiting districts a score of officials, many of whom had done this work for years past, and all of whom knew Polish and the emigrants' circumstances. The Polish autho-

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[1] André PAIRAULT: *L'Immigration organisée et l'emploi de la main-d'œuvre étrangère en France.* Paris, 1926.

[2] As explained on the following page this organisation is now replaced by the Institution for Employment Exchanges and Unemployment Insurance.

rities who took part in the operations were representatives of the public employment exchanges and were under the supervision of an inspector from the Emigration Office. These representatives themselves presented the candidates, while under the provisions of the Germano-Polish treaty of 24 November 1927 the actual selection was made by the representatives of the German Central Office.

The intending emigrants went to the administrative centre of the district, grouped by villages or communes and in charge of their mayors. Recruiting was effected on the basis of the German employers' applications, which might be numerical, nominal or partly the one and partly the other. The recruiting and selection commission consisted of a representative of the public employment exchange and a recruiting agent of the German Central Office. The mayor of the village also attended to give any information required, but did not himself take part in the selection operations. The commission proceeded along the lines laid down in the Germano-Polish treaty, that is to say, the workers were presented and selected according to their physical fitness and occupational qualifications, and with a view to the constitution of homogeneous groups.

The first stage was verification of the emigrants' statements as to their family and pecuniary circumstances. For emigrants who had been applied for by name there was a second examination as to the legitimacy of the application, the object being to prevent the departure of persons who were not known to the employer but had been brought to his notice by other workers or by a foreman sent to Poland.

The occupational examination was based on the candidates' detailed statements, confirmed if necessary by the mayors. The peculiarity of the examination for physical fitness was that it was carried out, not by the doctors, but in the first place by the Polish authorities when the intending emigrants were registered, and later, during the recruiting operations, by the representatives of the German Central Office. The emigrants were subjected to a medical examination only upon their arrival in Germany, an arrangement that entailed the risk of persons being rejected after they had left their country.

Lastly, the aim was to form homogeneous groups of emigrants, either by choosing the whole group from one commune, or in other ways, weight being given to the opinion of the mayor.

This system of selection of Polish workers for German agriculture was in operation until 1931, when emigration of this kind was suspended. It was again employed in 1937 on the resumption of the migration movement, but with the difference that the German Central Office for Workers was replaced by the Federal Institution for Employment Exchanges and Unemployment Insurance, which sent twelve selection officers to the recruiting area in Poland. The resumption of Polish seasonal emigration to Germany is characterised by the almost total absence of nominal applications due to the interruption of contact between employers and workers over a long period.

A similar system to that adopted in selecting Polish emigrants for Germany has been followed, with certain divergencies, in other countries which have concluded labour migration treaties with *Germany (Yugoslavia, Czechoslovakia, Austria* and *Hungary).*

Lastly, as an instance of a rather different procedure, reference may be made to the Administrative Agreement concluded between

the competent authorities of *Poland* and of the State of *São Paulo* in *Brazil* (19 February 1927 [1]), according to which both selection and recruiting are carried out by the Polish authorities.

The Agreement lays down that before their departure the emigrants must undergo a medical examination conducted by Polish official doctors and must also give certain particulars, in order that the authorities may verify whether the emigrants fulfil the conditions prescribed by the laws and regulations of the immigration country and also the other conditions specified in the Agreement. These particulars are checked by Polish officials in the presence of a representative of the Labour Department of the State of São Paulo.

Selection under Agreements between the Emigration Country and Employers' Organisations

The cases just considered are illustrative of highly-developed organisation in the selection of workers recruited for abroad. As a rule, such systems can only be applied as a result of bilateral agreements between the States concerned, but sometimes the selection of emigrants by employers' organisations of the immigration country is based on agreement between these organisations and the authorities of the emigration country.

This was the case in *Yugoslavia*, as regards the concession granted in 1925 by the Yugoslav Government to the General Immigration Company, representing French industrial and agricultural employers [2]. The selection was at first restricted to single men, recognised as needy by the local authorities. Later, the Yugoslav authorities allowed women to be engaged, provided they knew how to write and were employed several together in the same place in France. The selection methods were similar to those already described in the case of Polish emigration into France. In Yugoslavia, however, there was only one medical examination (at the collecting centre at Zagreb).

In *Poland* emigrant workers are selected under agreements between the Polish authorities and the employers' organisations of the immigration country, in the case of emigration for work in the Belgian coal mines, for seasonal agricultural work in Denmark and Latvia, etc.

The selection of workers for the Belgian coal mines is based on the same system as for emigration to France; it is carried out by representatives of the Labour Immigration Committee set up by the Belgian Collieries' Federation, who act in agreement with and under the supervision of the Polish authorities.

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[1] At this agreement has not been ratified its provisions have not come into force.

[2] The Labour Treaty between Yugoslavia and France was only signed in 1932 and has not yet been ratified by France.

Emigration of women for agricultural work in *Denmark* [1] took place in Poland with the assistance of representatives of the Foreign Labour Employment Bureau *(Landsudvalget for fremmed Arbejdskraft)* set up in Denmark by the Agricultural Employers' Association. The selection was restricted to women wishing to emigrate who had been approved and presented by the public employment exchanges. A circumstance which made the occupational selection very much easier was that all the emigrants were chosen from among women who had already worked in Denmark in previous years. The medical selection was carried out by Polish doctors.

The selection of seasonal workers for *Latvia* is based on the system adopted for Polish emigration into Germany. It is carried out by representatives of the Latvian Central Agricultural Association from among intending emigrants chosen by the Polish authorities.

It should be added that where the emigration country reserves to itself a monopoly in recruiting, and organises the selection either by a bilateral treaty with the immigration country or by an agreement with an employers' organisation in that country, it makes a certain preliminary selection in the actual process of recruiting. Those persons are of course eliminated who do not fulfil the administrative or social conditions prescribed in the emigration regulations. Moreover, the would-be emigrants often undergo at this point a first examination to ascertain whether they satisfy the conditions prescribed for admission to the immigration country and the requirements for the jobs to be filled. For instance, those who do not belong to any of the occupations requested by the foreign employers are eliminated forthwith.

This preliminary examination, which is part of the recruiting proper but represents at the same time a preparatory stage of the selection, is regulated in considerable detail in *Poland*. In the first place the authorities of the communes making up the districts from which the proposed quota of emigrants for France, Germany, Latvia, etc., is to be recruited register free of charge the workers wishing to emigrate. Certain classes of persons are excluded *a priori* from such registration, whereas others are entitled to preference. For instance, in the case of agricultural workers emigrating to *Germany* the following classes were excluded : persons not possessing Polish nationality ; men liable to military service and soldiers on leave ; persons not employed in agriculture, or suspected of having other intentions in Germany than agricultural work ; cripples, invalids or pregnant women ; unaccompanied girls under 21 years of age ; families with children not fit to work. Property owners whose income sufficed to support themselves and their families were not eligible for registration unless the quota allotted to the commune had not been exhausted by needy applicants. Priority was given to

[1] Emigration of this kind occurred up to 1929.

persons without means who had already stayed in Germany for long periods, agricultural workers without land, and owners of small holdings, especially where they belonged to large families.

Resolutions adopted by International Conferences

The problem of selection was considered by the *International Conference on Emigration and Immigration* at its two sessions held respectively at Rome in 1924 and at Havana in 1928.

A resolution adopted by the Rome Conference expressed the view that the employer should be entitled to require a medical and technical examination of each worker. In another resolution, the Conference " recognising that it would be in the interest of emigrants to reduce as far as possible the number of medical inspections to which they are subjected " expressed the wish that " those States which are in a position to do so within the limits of their laws and regulations should endeavour to take steps to provide for medical examinations, before departure, of a sufficiently thorough character to reduce to a minimum the possibility of the emigrant being rejected on medical grounds at the port of landing ".

The Havana Conference recommended that " an occupational selection of emigrants should be organised before their departure from the country of origin, so as to minimise the possibilities of conflicts arising in the country of immigration concerning the immigrants' occupational qualifications proper or their general occupational utility ".

§ 5. — Transport

The protection of migrant workers requires not only that the recruiting and selection operations should be properly organised and supervised but also that the workers should be guaranteed before their departure against certain difficulties, abuses and risks to which they may be exposed on their journey to the immigration country. The provisions to be found in this connection in the regulations of the different countries relate especially to the amount of the travelling expenses, the manner of meeting these expenses, the supervision of advances made to the emigrant before his departure, and his protection against certain travelling risks.

Travelling Expenses

Amount of the Expenses

The question of the migrant worker's travelling expenses is a particularly important one both for the employer and for the migrant himself. The manner in which it is regulated has a considerable effect upon the volume and trend of migration movements in general.

First and foremost, there is the actual cost of the journey, i.e. the migrant's fare, and possibly fares for the members of his family. In addition, however, there are a number of expenses incidental to the journey; these are often added to the fare and included in a single payment, especially when the migration is organised. Such expenses may include the cost of lodging and of board at the beginning of the journey, during it, and even on arrival in the country of destination, the cost of accompanying emigrants, etc. Sometimes the amounts mentioned above are still further added to by including under the heading of "expenses of introduction" the expenses of the organisation which undertakes the engagement and transport of the migrants. The amount naturally varies according to whether the organisation is a profit-making body or is one which merely charges the cost price, and according to the amount of supervision to which it is subject with a view to keeping its expenses down to a strict minimum. In this connection it should not be forgotten that the earnings of the middleman are appreciably increased when their rates are based on the normal price of the tickets for the journey, although in fact the railways in most countries grant considerable reductions to people travelling in parties.

Several Governments, not wishing to have the migration of workers hampered by unduly high travelling expenses and anxious to protect the legitimate interests of the parties concerned, have laid down a scale of charges for introducing migrant workers which the undertakings in question may not exceed. It has already been noted in connection with the obligations required of organisations for recruiting, introducing and placing workers that the rates charged by these organisations are often subject to Government approval[1]. Such approval is more frequently required and the super-

[1] See above, p. 43.

vision exercised is more thorough where the prices which shipping companies ordinarily charge emigrants are concerned. The regulations on this subject, however, go beyond the scope of this report, for they are closely bound up with recruiting. It need only be recalled here that there are a large number of regulations concerning transport by sea ; regulations are in force to fix the price of transport, to publish this fixed price, to prevent its being exceeded by additional charges, to determine methods of payment, and to prevent the sale of tickets for shipping lines other than those run by the company selling the tickets [1].

Payment of Expenses

Governments desirous of encouraging emigration from their own territories or immigration into them sometimes themselves pay the cost of the migrants' transport [2]. This practice, which was quite a usual one before the world depression, is no longer followed at the present time save in exceptional cases, and the emigrants' travelling expenses are mostly borne by one of the two parties directly concerned, the employer or the emigrant himself, the State confining itself more and more to granting reduced railway fares.

If employer and worker are bound by a contract of employment, the contract usually deals with the cost of the journey, either fixing the manner of payment or leaving the parties to agree upon one of a number of stated alternatives. The contracts practically never lay down that one of the parties is to bear *all* the travelling expenses, from the worker's home in his country of origin to the place of destination in the country of immigration ; where the travelling expenses are to be borne by the employer, the worker is usually required to defray the cost or part of the cost of the journey either to the place of engagement, or the collecting centre, in the country of origin, or to the frontier of that country ; similarly, where the travelling expenses are to be borne by the worker, the

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[1] For the regulations of the different countries concerning the cost of transport by sea, compare INTERNATIONAL LABOUR OFFICE : *Migration Laws and Treaties* ; Vol. I, " Emigration Laws and Regulations ", pp. 215-223, Geneva, 1928.

[2] In this connection, cf. INTERNATIONAL LABOUR OFFICE : *The Migration of Workers*, Geneva, 1936, pp. 113-15.

employer is often required to defray these expenses from the collecting centre in the country of immigration to the work-place. Except where emigration from frontier areas is concerned, the portion of the expenses defrayed by the party not called upon to bear the expenses is small compared with the other portion. Accordingly this amount will be left out of account in analysing below the chief methods adopted for the payment of travelling expenses [1]. We shall consider only the main portion of these expenses, which is borne sometimes by the employer and sometimes by the worker.

1. When the travelling expenses, as just defined, are *borne by the employer*, the contract contains one of the following provisions :

(*a*) The employer pays the expenses without being entitled to any refund from the worker.

This clause is contained in the contracts of *Italian* workers engaged for *French* industrial or agricultural undertakings and of *Czechoslovak* workers engaged for work in *French* sugar-beet undertakings, etc.

(*b*) The expenses are paid by the employer, but are deducted from the worker's wages up to a sum which is fixed beforehand and is intended to guarantee the employer against unjustified breach of contract by the worker ; this sum is refunded to the worker at the end of the contract.

A clause of this kind is contained in the model contracts of *Polish* agricultural workers and domestic servants engaged for *France*.

(*c*) The expenses are paid by the employer, and may or may not be deducted from the wages ; in either case, at the end of the contract the worker is paid the cost of the return journey.

This is the case with the contracts of *Czechoslovak* workers engaged for work in sugar-beet undertakings in *France* ; of *Polish* agricultural workers for *Germany*, *Denmark* and *Latvia* ; of *Polish* workers for the *Belgian* mines, etc.

Under the provisions of the contract of *Polish* textile workers engaged for *Rumania*, these workers received at the end of the contract the cost of the return journey not only for themselves but also for their families ; where the workers did not desire to return, they received, by way of a bonus, half the cost of the journey.

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[1] For a more detailed analysis of all the different ways of dividing expenses, cf. *The Migration of Workers*, pp. 116-19.

(*d*) The expenses, although borne by the employer, are advanced by the worker; they are refunded after he has been employed in the undertaking for a certain period.

This clause was contained in the model contract formerly given to *Polish* workers engaged for the *Belgian* mines.

2. When the travelling expenses are borne *by the worker* — as is most often the case — there are two kinds of clauses:

(*a*) The expenses are paid by the worker, without any advance from the employer, who pays him a bonus at the end of the contract.

An optional clause of this kind is contained in the contract of *Hungarian* industrial workers engaged for *France*.

(*b*) The expenses, although borne by the worker, are advanced to him by the employer, and are afterwards deducted from his wages up to a fixed sum; this sum is refunded to the worker at the end of the contract.

This clause appears in the contracts of *Czechoslovak* and *Yugoslav* workers engaged for work in industry, mining or agriculture in *France*; of *Polish* workers engaged for work in industry or mining in *France*, etc.

The Question of Advances

Although there are these various systems for paying travelling expenses, there is in reality very little substantial difference between them. It is of very little practical importance who pays the expenses in the first place or who makes the advance, or even, in the absence of very strict supervision, whether restrictions are imposed on the employer's right to recover the expenses; if the employer participates in any way whatever in the payment of the worker's travelling expenses, the latter may have his wages proportionately reduced during a fairly long period. When the expenses of introduction are fairly high, complaints have often been made that employers try to recover their outlay, or even to make a profit, by indirect means, particularly by paying the migrant the minimum rate of wages applicable to his class or even a rate of wages applicable to a lower-paid class. It is owing to this desire of the employer to recover the travelling expenses as fully as possible that difficulties may arise between migrant workers and their employers with regard to the rate

of wages, especially during the first year of employment. Further, the debt which the worker has thus contracted towards his employer may place him in a position of dependence on the latter likely to give rise to abuse and conflict.

The system of advances to recruited workers by their employers may in many cases be a practical means of facilitating the employment of needy workers at distant places and also of providing certain countries with additional labour. But obviously it can easily lead to serious abuses, and in particular to the exploitation of the workers recruited. Hence strict supervision is necessary to see whether the advance is actually made, how it is refunded, and what obligations it entails for the worker; supervision is a means of protecting the employer against waste of money, and of ensuring that the debt incurred does not burden the worker with excessive obligations amounting to actual servitude.

In order to prevent abuses in connection with the holding back of part of the wages of workers in general, the law of several countries lays down regulations concerning the circumstances in which such deductions may be allowed and the manner in which they may be effected. As regards advances to migrants by transport undertakings, these are prohibited by law in some countries.

In *Hungary*, for instance, the Emigration Act of 1909 forbids transport agents to make cash advances to emigrants.

In *Sweden* the Royal Notification of 5 May 1916, regulating placing in employment abroad, forbids any clause to be inserted in the contract of employment by which travelling expenses or the cost of maintenance during transport would be held back from the agreed wages, or paid back by the migrant in the form of work done by him after his arrival in the country of destination.

Protection against Travelling Risks

Nature of the Problem

The risks to which the emigrant worker is exposed during the journey are manifold — accidents, illnesses, unforeseen breaks in the journey and so on. These risks, although they rarely materialise, are serious for travellers of all kinds, and doubly so for migrants and their families. Working-class families have little enough means in ordinary circumstances and are in a particularly precarious position when they or

their breadwinners are migrating. A report of the Permanent Conference for the Protection of Migrants states that: "The migrant has often severed all connections before leaving, sold all his goods, and even borrowed money to pay for his journey; or perhaps he has left his family just enough to make two ends meet until they are reunited. Moreover, even if he could take out a life insurance or a traveller's insurance policy, he usually does not, because as a rule he is more lacking than anyone else in experience and foresight. Migrant families have been reduced to the most acute distress when they have lost one of their breadwinners before settling down in their new home." Further, migrants and their relatives, unlike wealthier travellers, have not the time and money necessary to enforce their right to compensation in case of accident, and especially an accident during the voyage.

Another considerable risk to which the migrant worker is exposed is that of losing his luggage, which often contains the bulk of his belongings. This risk is sometimes covered by insurance companies, but the policies do not always seem to meet the case of the migrant [1], and regulation of their terms or of premium rates has often seemed desirable in his interest.

The Existing Systems

The risks outlined above have come to the notice of Governments, many of which have established compulsory insurance to cover them. Such insurance may take one of two forms: either the authorities organise a complete insurance scheme with fixed contributions and compensation, or they require the emigration agent to take out a special policy or to cover the risks up to an amount fixed by law or in the licence.

A general insurance system, with fixed payments and compensation, was for many years in operation in *Spain*. As reorganised by the Emigration Act of 21 December 1924 and the Decrees of 21 November 1925 and 17 February 1928, this system covered the risks of death or disablement in the event of disaster at sea, and also of illness contracted by the emigrant during the voyage.

Up to the present, nine European States have introduced compulsory insurance for emigrants, chiefly against the risks of sea voyages. These countries are: Czechoslovakia, Den-

[1] Mr. G. LEFÈVRE in his book *Homme-Travail* cites the case of a Polish emigrant proceeding to Toul in France who had to pay 140 French francs for the insurance of a deal trunk.

mark, Germany, Hungary, Lithuania, Poland, Rumania, Switzerland and Yugoslavia. Also a number of countries have provided for compulsory insurance covering emigrants' luggage only.

In *Czechoslovakia*, according to the Emigration Act of 15 February 1922 and the Regulations of 8 June 1922, the undertaking transporting the emigrants is bound to insure the head of the family or his representative against accidents, at premium rates approved by the Minister of Social Welfare, and if possible with a Czechoslovak insurance company. The cost of insurance is borne by the emigrant and must be mentioned in the contract. The transport undertaking must insure the emigrant's luggage as far as his destination against loss or damage, and the emigrant must repay the premium in accordance with a scale approved by the Ministry of Social Welfare.

In *Denmark* the Emigration Act (Section 20) requires every emigration agent who is authorised to transport emigrants directly from a Danish port to some other part of the world to insure the ship used for the purpose for an amount which must in no case be less than the total sum paid by all the emigrants. The amount of the insurance must cover all expenditure necessitated by shipwreck, damage or any other accident, by the maintenance of the immigrants, and by their transport to their destination. As a result of a later decision by the Minister of Social Affairs the insurance may be replaced by a written guarantee given by the agent concerned on behalf of the shipping company by which the agent or the company undertakes to meet the expenditure referred to.

In *Poland*, under the Legislature Decree of 11 October 1927, the transport undertaking is bound to insure every emigrant with a Polish insurance company in the conditions laid down in the licence. The emigrant is insured against the risks of accident and his luggage against loss or damage throughout the journey. The accident insurance is for 2,000 zlotys ; it does not diminish the liability of the transport undertaking for damages arising out of an accident if such liability exists in law. The luggage must be insured for at least 500 zlotys. If the emigrant's loss, by reason of the loss or damaging of his luggage, exceeds this sum, the transport undertaking is bound to pay him additional compensation. This insurance, however, does not apply to emigrants travelling by rail to a European country.

In the international sphere enquiries have been carried out in various quarters into the possibilities of a general system of insurance, but they have been concerned with ships' passengers in general and not migrants in particular. Moreover, the schemes proposed were based on commercial law and paid no regard to the obligations of employers or recruiters or to the social protection of the workers. But the examples cited above show that steps have been taken recently by several countries, either by statute or by contract, for the insurance of migrant workers.

Resolutions adopted by International Conferences

The *International Conference of Emigration Countries*, held at Rome in July 1921, adopted the following resolution regarding insurance of oversea emigrants against travelling risks :

1. Each State should lay down that the transport contract for oversea emigrants must contain a clause requiring the company to compensate the emigrant for accidents of any kind, and due to whatever reason, which he may incur during the voyage, from the time of going on board ship to the time of landing.

2. This obligation on the part of the company in regard to travelling risks should cover any loss which the emigrant may suffer as a result of loss of his luggage or damage thereto.

3. Where the ticket issued by the company includes the land journey, from the country of origin to the port of sailing, or from the port of landing to the country of destination, the obligation on the part of the company in regard to travelling risks should cover the land journey.

4. The compensation prescribed for an accident involving the emigrant's death should be paid to the relative whom the emigrant indicated before his departure ; where no relative or relatives have been thus indicated, the compensation should be paid to the emigrant's relatives in accordance with the law of inheritance.

5. Each country should fix a fair compensation for the various cases.

6. Each country may lay down whether the company must or may meet its obligations by insuring the emigrants and their luggage against travelling risks, for the amounts fixed by the law of the country in which the transport contract was concluded.

The *International Emigration Commission* convened by the International Labour Office in August 1921, adopted a resolution recommending that every emigrant should be guaranteed for the benefit of his dependants against the risk of death or disablement from the time he commences his journey until he arrives at the destination stated on his ticket. Accordingly the Commission drew the attention of Governments to the desirability of instituting, if they had not already done so, a system guaranteeing emigrants against risk of death or disablement when travelling.

The *International Emigration and Immigration Conference*, held at Rome in May 1924, passed a similar resolution and also stressed the need for ensuring prompt payment of compensation.

Lastly, it may be noted that this question has occupied the attention of the *Permanent Conference for the Protection*

of Migrants at its various sessions. At its 1931 session the Conference reached the conclusion that a study should forthwith be made of the measures which should be taken, seeing that the laws concerning compensation for accidents incurred by migrants were highly inadequate, and that it was extremely difficult for migrants to enforce their rights as at present recognised, which were in any case very ill-defined. Accordingly the Conference recommended that the Governments should shortly institute a compulsory insurance system for migrants, with specified rates and on the basis of an international Convention, so as to cover all accidents which might occur during the journey, and also adequately to provide for the defence of the rights of migrants and their dependants in the event of dispute.

CHAPTER III

CONDITIONS OF EMPLOYMENT

The migrant worker, in his role of foreigner, is often placed in an unfavourable position as regards the safeguarding of his conditions of employment, and therefore needs special protection. In principle, equality of treatment of foreign and national workers is generally recognised to be a just and humane desire, but practical difficulties often arise in putting it into practice which, in certain cases, call for co-operation between the countries of immigration and of emigration. Further, even when equality with national workers is recognised by existing regulations it may happen that the migrant is insufficiently informed and accepts unsatisfactory conditions of work; this risk is particularly great if, in his anxiety to secure employment immediately on arrival in the new country, he signs a contract of employment before departure. The countries of emigration as well as the countries of immigration are anxious to control contracts of employment entered into in this way, and have often laid down in standard contracts the conditions under which migrant workers shall be employed. Finally, in addition to the question of establishing definite conditions of employment for migrant workers there is also that of ensuring the application of these measures; here again the difficult position in which migrant workers find themselves, in strange surroundings, ignorant generally of the language of the country, often separated from their families and friends and ill-informed of the resources at their disposal, has led to the institution of special measures of control.

The following pages review successively the problems arising from the practical application of equality of treatment; the regulations governing the conclusion of contracts of employment by migrant workers before their departure and the terms of such contracts, and the measures providing for inspection and special protection.

§ 1. — Equality of Treatment

The Problem of Equality of Treatment

Most of the problems raised by the regulation of the conditions of labour of immigrants are due to the desire for equality of treatment between national and foreign workers. From a social point of view, it seems hardly fair that advantages accorded to national workers should be withheld from others who by their labour contribute to the economic development of the country in exactly the same way, nor would it seem to be to the interest of the immigration country to allow within its borders unequal competition bound to affect, in the long run, the national workers. Consequently, equality of treatment has increasingly tended to become a guiding principle of the migration policy of States, the practical application of this principle to conditions of labour being one of the objects for which agreements are concluded between emigration and immigration countries, as will be seen in this and the following chapters. Not only does the principle of " equal remuneration for work of equal value " as between men and women, embodied in the Constitution of the International Labour Organisation, imply such equality, but another principle likewise mentioned, viz. " the standard set by law in each country with respect to the conditions of labour should have due regard to the equitable economic treatment of all workers lawfully resident therein ", also bears on this issue.

It may be pointed out at the outset that, so far as the general protection of the workers is concerned, equality of treatment does not constitute a problem. Labour laws and regulations strictly so called, such as those concerning industrial hygiene, prevention of accidents, hours of work and weekly rest, etc., apply as a matter of course to all the workers included within their scope, regardless of considerations of nationality. All international Conventions on these subjects are similarly intended to be applied to foreign as well as national workers in each country.

On the other hand, there are practical difficulties in the application of the principle of equality of treatment in respect of other questions, particularly social insurance and wages.

As regards social insurance, the International Labour Conference has on various occasions considered the question

of the treatment of foreign workers, and it would seem to be sufficient to recall here the measures adopted. In 1925 the Conference adopted a Draft Convention, which came into force in 1928, ensuring to foreigners or their dependants the same treatment as to national workers, without any condition as to residence, in the matter of workmen's compensation for accidents. This Convention was supplemented by a Recommendation developing the principles embodied in it. At the same session, the Conference adopted a draft Convention, which came into force on 1 April 1927, concerning workmen's compensation for occupational diseases, which provides that compensation in such cases shall be payable to all workers, including salaried employees and apprentices, in accordance with the general principles of the national legislation relating to compensation for industrial accidents.

In 1927 the Conference adopted a Draft Convention on sickness insurance for workers in industry and commerce and domestic servants which came into force on 15 July 1928, and another on sickness insurance for agricultural workers which came into force on 13 July 1928. These two Conventions which are likewise applicable to manual as well as non-manual workers, tacitly include foreign workers, and thus guarantee them equality of treatment with national workers as regards insurance conditions and benefits.

The six Conventions concerning invalidity, old-age and widows' and orphans' insurance adopted by the Conference in 1933 contain detailed provisions regulating the position of insured foreigners. They lay down that foreign employed persons shall be liable to insurance and to the payment of contributions under the same conditions as nationals. Further foreign insured persons and their dependants are entitled, under the same conditions as nationals, to the benefits derived from the contributions credited to their account.

In 1935 a Draft Convention was adopted concerning the establishment of an international scheme for the maintenance of rights in course of acquisition with, and of rights acquired with, compulsory invalidity, old age and widows' and orphans' insurance institutions.

In 1934 a Draft Convention was adopted ensuring benefit or allowances to the involuntarily unemployed. Article 16 of this Draft Convention says that " foreigners shall be entitled to benefit and allowances on the same conditions as nationals ;

provided that any Member may withhold from the nationals of any Member or State not bound by this Convention equality of treatment with its own nationals in respect of payments from funds to which the claimant has not contributed ".

There remains the question of wages. Any laws and regulations that may be adopted on the subject, such as the fixing of a minimum wage or the provision of machinery for this purpose, apply necessarily to all workers in a given industry or branch of industry without distinction of nationality. Collective agreements dealing with conditions of work, which are legally binding, likewise cover all the workers concerned. The question of equality of treatment can arise, therefore, only in respect of employment in virtue of a contract of service. It may happen that a foreign worker is paid at a lower rate of wages than a national worker would be for equal work. Complaints have indeed repeatedly been made with regard to such an occurrence by trade union organisations and others in immigration countries. It is generally recognised that, apart from collective agreements and the admission of migrants to trade unions in the immigration country, the best guarantee against such inequality is not a law the enforcement of which would be beset with practical difficulties, but a bilateral or multilateral treaty containing a standard contract in which the wages to be paid would be inserted in each case subject to the supervision of the authorities in the country of immigration concerned, and it may be of the employers' and workers' organisations as well. Thus, it is mainly in treaties and contracts that provisions are found on this subject.

Another problem related to that of the practical application of the principle of equality of treatment of national and foreign workers is that of the rights of aliens to obtain employment. Certain immigration countries, more especially during the recent economic crisis, have taken measures to restrict the employment of foreign workers who are regularly established in the country. Sometimes these measures limit or even make impossible the free choice of employment by foreign workers by, for example, forbidding them to change their trade or their place of work, or even to change from one employer to another. Thus, the French law of 11 August 1926 prohibits the employment of a foreign worker in any other trade than that for which his identity card has been granted.

More often, the right to employ foreign workers is restricted by fixing the proportion that shall be allowed to work in specified trades and localities, no alien workers being employed in excess of these proportions or allowed to retain the employment they already hold if these proportions are exceeded. For instance, in *France*, the Act of 10 August 1932 to protect French labour stipulates that (1) in contracts made with the State, departments, communes or public establishments for public works or for the supply of goods, either by tender or by private arrangement, and in contracts for operations under a concession or lease made with the same public bodies, the specification shall fix the proportion of alien workers who may be employed in workplaces or workshops organised or operating for the purposes of carrying out the contract and in undertakings operating under a concession or lease; in public services operating under a concession, this proportion shall not exceed 5 per cent.; (2) in the case of private undertakings, whether industrial or commercial, which are not covered by the preceding section, the proportion of alien workers who may be employed therein may be fixed by Decree. The said proportion shall be fixed for each occupation, industry, branch of commerce or class of occupations, for the whole country or for a particular region.

On the basis of these provisions a large number of Decrees have been enacted in France which fix the maximum percentages of alien workers which can be employed in different industries.

In many of the Latin-American States the employment of aliens is restricted both by fixing the minimum proportion of national workers which must be maintained in an undertaking and also the percentage of the payroll which must be paid to them. For instance, in Cuba the minimum proportion of national workers which must be maintained in an undertaking covered by such legislation is 50 per cent., in Brazil two-thirds, in the Dominican Republic 70 per cent., in Guatemala, Nicaragua, Panama and Venezuela 75 per cent., in Colombia, Ecuador, Peru, Salvador and Uruguay 80 per cent., in Bolivia and Chile 85 per cent., and in Mexico 90 per cent. The percentages of payroll which must be paid to nationals are also specified in the laws of Bolivia, Chile, Colombia, Cuba, Panama and Peru and vary from 50 per cent. in Cuba to 85 per cent. in Bolivia and Chile.

There is, however, wide variation in the scope of the legislation. In some of the States only wage-earning employees are protected, in others only salaried employees, and in others both are included. Again, the laws of certain of the States specifically apply to agriculture as well as commerce and industry, in others they only cover commercial enterprises and in one, Uruguay, they apply only to public works. The laws of Bolivia, Chile, Mexico, and Venezuela do not specify occupation at all.

The practical application of restrictions of this kind in the countries of immigration has resulted directly or indirectly in the repatriation of many alien workers and their families (further reference will be made to this in the chapter on repatriation). The consequences have in some cases been severe for a considerable number of migrants and protests have been made by emigration countries which have looked upon it as an infringement of the principle of equality of treatment. The problem has not, however, been solved by agreement between the countries concerned, and though the recent improvement in economic conditions may have made it less acute it still remains a problem in need of settlement.

Measures of Application

Although, as already mentioned, the practical application of the principle of equality of treatment is most frequently regulated by agreements between the countries concerned, yet provisions to this effect are nevertheless to be found in the legislation and even in the constitution of several countries.

In *Mexico* equality of treatment is expressly assured to foreign workers by the provisions of the Political Constitution of 1917 (Article 123, paragraph VII), which states that " the same compensation shall be paid for the same work without regard to sex or nationality ". The Federal Labour Act of 18 August 1931 (Article 86) provides that equal wages shall be paid for equal work performed in equivalent posts with the same working day and the same conditions of efficiency ; that distinctions shall not be made on the ground of age, sex or nationality. Article 22 (paragraph V) provides that conditions even if explicitly laid down in a contract shall be null and void if on grounds of age, sex or nationality they fix a wage inferior to that paid to other employees for the same work of equal skill, in the same class of employment for the same working day.

In *Spain*, by the terms of a Royal Decree dated 16 January 1931, alien workers whose entry into Spain and employment there is authorised by the competent services shall not in any case be paid a wage or remuneration less than that which is paid to Spanish workers of the same category and equal vocational capacity in the locality or district in which they are to be employed.

The importance of bilateral agreements in guaranteeing equality of treatment is very considerable. Many bilateral agreements have, as stated above, standard contracts annexed to them which form the basis of individual contracts for migrant workers, with the addition of the necessary personal particulars such as the names of the employer and worker, the rate of wages to be paid, etc. The following paragraphs summarise the general terms of certain of these agreements in so far as they refer directly to equality of treatment.

Austria-France. — The standard contract appended to the Recruiting Agreement of 1926 for the engagement of Austrian workers in France ensures that Austrian workers shall be on a footing of equality with French workers of the same grade and skill and doing the same class of work in the district where they are employed as regards the conditions of their employment (hours of work, rest-days) and wages. Wage variations of French workers during the validity of the contract shall apply to Austrian workers.

Austria-Poland. — In a Commercial Convention of 25 September 1922 the provisions of the agreement regarding conditions of work and the protection of workers ensure to workers from the territory of either contracting Party the same treatment as national agricultural workers of the same class.

Belgium-France. — Article 2 of a general Labour Treaty concluded on 24 December 1924 declares that immigrant workers shall receive, for work of equal value, remuneration equal to that received by nationals of the country in the same occupation employed in the same undertaking, or, in default of nationals in the same occupation employed in the same undertaking, not less than the customary wages of workers in the same occupation in the district. The Government of the country of immigration undertakes to ensure equality of the wages of immigrant workers and of its own nationals within its territory. Article 3 provides for the protection of immigrant workers by the country of immigration. The workers of either party shall enjoy the same protection as is granted to nationals by the laws and customs of the country in respect of conditions of employment and standard of living. Article 8 lays down that nationals of each of the contracting parties when in the territory of the other Party shall enjoy equality of treatment with the nationals of that country as regards the application of the laws regulating conditions of employment and the health and safety of workers. This equality of treatment shall be extended to all future provisions which may be issued in this connection in either country.

Belgium-Luxemburg. — The Labour Treaty concluded on 20 October 1926 contains the same provisions as the Franco-Belgian Treaty analysed above.

Belgium-Netherlands. — A Labour Treaty ratified on 7 January 1936 provides that each of the parties may take the measures necessary to ensure that immigrant workers shall receive for equal work remuneration equal to that received by its nationals of the same category employed in the same undertaking, or in default of national workers of the same category employed in the same undertaking, the standard wages currently paid to workers of the same category in the same region. The foreign workers shall enjoy equal protection with nationals in respect of conditions of employment and standards of living.

Brazil-Poland. — Certain provisions of an Agreement signed on 19 February 1927 but not ratified relate to living and working conditions of Polish workers engaged by owners of plantations in São Paulo. The Brazilian Department of Labour guaranteed equal treatment of Polish agricultural workers with Brazilian citizens as regards labour legislation, protection of workers, etc. The Agreement includes a most-favoured-nation clause to ensure that Polish workers shall enjoy all rights and privileges granted to workers of other nationalities.

Czechoslovakia-France. — The standard contract for the employment of Czechoslovak agricultural workers in France, appended to the Convention on Emigration and Immigration of 20 March 1920, provides that for work of equal value Czechoslovak workers shall receive the same payment as French workers of the same grade employed in the same establishment. Equality of treatment is extended to allowances payable in addition to wages. Any alterations made in the wages of French workers during the period for which the contract runs shall be extended of right to Czechoslovak workers.

France-Italy. — The provisions of the Labour Treaty of 30 September 1919 (Article 2) relating to equal remuneration for national and foreign workers and (Article 3) protection of immigrant workers are the same as those of the Treaty of 1924 between Belgium and France (see above). Nationals of each of the contracting parties when in the territory of the other party shall enjoy equality of treatment with the nationals of that country as regards the application of the laws regulating the conditions of employment and the hygiene and safety of workers. This equality of treatment shall also be extended to all future provisions which may be issued in this connection in either country (Article 19).

France-Poland. — The Convention of 3 September 1919 provides that immigrant workers are to receive for equal work remuneration equal to that of nationals of the country in the same occupation who are employed in the same undertaking on similar work and based on the customary rate of wages current in the district. The contracting parties grant to nationals of the other party on their territory the same treatment as to their own nationals regarding the application of laws regulating the conditions of work and the health and safety of workers : this equality of treatment is extended to all provisions on this subject which may subsequently be agreed upon between the two countries.

Under a standard contract used for the recruitment of *Rumanian* agricultural and forestry workers for *France*, the hours of work must in all circumstances be the same as those of French workers

is not uncommon for treaties to exempt nationals of a contracting State from exceptional duties and taxes in connection with commercial and other matters. It may be noted that in virtue of such a clause included in the Consular Convention concluded between Spain and France on 7 January 1862 Spain was able, in 1927, to establish the right of its nationals to exemption from payment of the tax which has to be paid by foreigners in France on the delivery of their identity cards. In order to avoid the granting of such exemptions treaties concluded by France usually contain a reservation concerning the equality promised in the case of stamp duties which foreigners have to pay in connection with certain administrative Acts.

In agreements concluded by *Germany* with *Poland* on 24 November 1927 and with *Czechoslovakia* on 11 May 1928 there are clauses exempting seasonal workers whose permanent home is in their native country from a tax on wages. On 24 March 1923 a special agreement was concluded between *Germany* and *Switzerland* to avoid double taxation of wages.

Further, labour and social welfare treaties often contain provisions relating to taxes on labour.

Thus, the agreement between *Germany* and *Czechoslovakia* of 11 May 1928 provides for recruitment taxes. Other agreements, however, exempt migrants from all recruitment taxes (*Germany-Yugoslavia*, 22 February 1928, Article 15) or prohibit the levying of any tax on employers engaging foreign workers (*Belgium-France*, 30 November 1921; *France-Italy*, 30 September 1919; *France-Luxemburg*, 4 January 1923; *France-Poland*, 14 October 1920); others again stipulate that no special tax can be imposed on nationals of the contracting Party on account of their taking up employment (*Belgium-France*, 24 December 1924; *France-Italy*, 30 September 1919; *France-Poland*, 9 December 1924).

The general Labour Treaty concluded between *Belgium* and *France* on 24 December 1924 regulates, among others, the question of taxation. Neither of the two contracting States is to impose special duties or taxes on nationals of the other State on account of their employment in its territory, but this provision is without prejudice to the requirements of the laws and regulations concerning general taxation affecting aliens, especially those connected with the issue of permits of residence. It is not to be understood as exempting nationals of either of the contracting States resident in the territory of the other State from all taxation, present and future, which is imposed on the nationals of the State of residence.

Under the Treaty of 11 May 1928, between *Germany* and *Czechoslovakia*, Czechoslovak seasonal workers are exempted from wage taxes, if they furnish proof that they remain domiciled in Czechoslovakia. The agreement does not apply to hop pickers.

Resolutions adopted by International Conferences

Referenee may be made, in concluding this section, to the Reeommendation adopted by the International Labour Conference at Washington in 1919, whieh is as follows :

> " The General Conference recommends that each Member of the International Labour Organisation shall, on condition of reciprocity and upon terms to be agreed between the countries concerned, admit the foreign workers (together with their families) employed within its territory, to the benefit of its laws and regulations for the protection of its own workers, as well as to the right of lawful organisation as enjoyed by its own workers."

The prineiple of equality of treatment for foreign workers employed on publie works was reeognised in the Recommendation adopted by the International Labour Conference in June 1937, which reads as follows :

> " Foreign workers authorised to reside in the country concerned should be accepted for employment on public works in the same conditions as nationals, subject to reciprocal treatment."

The problem of equality of treatment was eonsidered at the two international Conferences on emigration and immigration held in Rome (1924) and Havana (1928). The Rome Conference, in a resolution dealing with the principles on which an emigrants' charter should be based, reeommended that foreign workers should not be liable, by reason of their employment or presenee in the country, to fees and taxes higher than those imposed on national workers ; that foreign workers should be entitled to reeeive free legal assistanee on the same eonditions as nationals on a basis of reciproeity ; and that foreign workers and members of their families should be entitled to the same rights as nationals under the laws for the proteetion of labour, compensation in case of aeeidents, admission to trade unions and assoeiations, and soeial insurance benefits, provided that, so far as the latter are eoncerned, reciprocal treatment or equivalent advantages are offered by the other country.

The Havana Conferenee pointed out that inequality of treatment of foreign and national workers is prejudicial not only to the interests of these workers but also to the interests of the emigration and immigration eountries, and reeom-

mended that " equality of treatment of national workers and foreign workers legally residing in a country, a principle embodied in the legislation of most countries, should be strictly applied in the laws for the protection of labour and social insurance, and in connection with the conditions of labour ; and the principle of equality of wages should not be violated by workers asking for a supplementary remuneration intended to cover travelling expenses, repayment of which has not been provided for in the contracts or Conventions in force ".

In 1929 a Conference was convened by the League of Nations on the treatment of foreigners. It was generally agreed that any provisions that might be arrived at by the Conference applicable to all foreigners should include workers as well as traders and manufacturers. It was not found possible, however, to arrive at concrete results owing to the complexity of the question. It was intended to hold a second session after the material prepared by the first conference had been considered by Governments, the International Labour Office and other bodies. It has not yet been found possible, however, to convene this second conference.

The attitude of workers' organisations towards equality of treatment has been expressed in a large number of resolutions advocating equality rather than reciprocity of treatment. The World Migration Congress, held in London in June 1926, declared that " the legislation of every country must ensure to all immigrant workers, both male and female, the same rights as to national workers in respect of wages and working conditions ". The trade unions also deal with questions which are of great importance in applying the principle of equality of treatment among workers of different nationalities. These questions include the organisation in trade unions of workers engaged outside their own country and their participation in the leadership of the unions and other similar organisations.

§ 2. — Contracts of Employment

Conclusion of Contracts

Since the war not only has the conclusion of contracts of employment with foreign workers previous to their admission been made compulsory to an increasing extent in the case of

migration within Europe, but it is also required in some of the extra-European countries. The first labour treaties concluded by *France* with *Poland*, *Italy* and *Czechoslovakia* expressly stipulated that workers immigrating individually to France need not have a contract of employment and that the French frontier posts and public employment exchanges would try to place them. It was further agreed that workers would be free to move from one country to the other in search of employment. The migration of workers individually without contracts of employment was, however, suspended as a general rule soon after the conclusion of the above treaties. According to the agreements drawn up since the beginning of 1930, emigrant workers, whether recruited in large groups or engaged individually, must, when leaving their country of origin and arriving at the frontier, produce a contract of employment endorsed by the competent Ministries of the two countries.

Several other countries (*Czechoslovakia*, *Denmark*, *Great Britain*, *Sweden*, etc.) also require immigrants to show a contract of employment or some similar document, bearing the visa of a competent authority. The visa is given only on condition that the employment of these foreign workers is not likely to be prejudicial to the interests of the nationals.

Similar measures have been adopted by a number of emigration countries (*Italy*, the *Netherlands*, *Poland*, *Spain*, etc.) in order to protect their nationals, and as the economic situation grew worse, some extra-European countries as, for example, *Argentina*, *Palestine* and *Mexico*, took the same step.

Various objections have been put forward to this method of international recruiting and placing. There was some hesitation even in Europe in adopting it, one reason being that it was feared that the obligation would act as a further restriction on migration and on the freedom of individuals, ordinary migrants as well as refugees, to move from one country to another. In a number of extra-European countries as, for instance, *Australia*, *Cuba* and the *United States*, where the admission of workers under contract is expressly prohibited by legislation except in certain specified cases, the opposition to the conclusion of contracts of employment with emigrants prior to their arrival in the country of destination is, however, much more stubborn and dates farther back. It would seem to be based on past experience, the introduction of contract labour having frequently led to undesirable consequences to

the emigrants themselves or to the community as a whole. There is an apprehension in these countries that no worker signing a contract for service in a distant country for the first time can have an adequate picture of the conditions therein and such a requirement may not only be prejudicial to his own interests but may prove detrimental also to the interests of the workers of the immigration country.

The disadvantages of the system can, however, be obviated by defining as closely as possible the conditions of employment of migrant workers, and submitting these conditions for approval by the authorities of the immigration country. Accordingly, in Europe labour or migration treaties or administrative agreements are supplemented by a standard contract, of which further particulars are given below, the terms of which are agreed upon by the competent authorities of the two countries in question and which outline in detail the living and working conditions of the immigrant. Such contracts form an important part of the bilateral treaty system as very often the treaties confine themselves to giving only a bald statement of general principles, leaving details of application to be completed in the standard contracts. This method of supplementing treaties by detailed but more easily amendable texts, adapted to circumstances which change continually and differ not only from occupation to occupation and from district to district but also from season to season, is resorted to by a number of States for regulating the recruitment and conditions of employment of migrant workers.

Generally, contracts of employment are made compulsory by States which have concluded bilateral agreements or treaties with other governments, such an obligation being considered indispensable for the proper enforcement of the treaties. The system of compulsory contracts is moreover an effective means of restricting the exodus of emigrants or the excessive influx of immigrants on an overcrowded labour market.

Standard Contracts

The compulsory use of standard contracts, although comparatively recent, is becoming increasingly common especially in continental European migration, and, though originally intended to apply only to the collective recruiting of labour, is tending more and more to cover also individual

recruiting. The contract is usually in the form of a printed document which the employer and the worker are required to sign with the addition only of such particulars as their names, the rate of wages, cost of accommodation, arrangements for the payment of travelling expenses, etc. Any alteration or modification of the terms of the contract may be introduced only by the competent authorities, provision being made, as in the Franco-Polish Convention of 1919 and the Franco-Czechoslovak Convention of the following year, for periodical meetings of representatives of both the States for this purpose.

Contracts conforming to a standard previously established by the States concerned have considerable advantages. The obligations which the parties will be called upon to undertake are known to them in advance and the task of checking the provisions of the contract by the authorities is rendered easy. Further, while independent contracts of employment, whether individual or collective, drawn up in due form between emigrants and their future employers in accordance with the existing national legislation, can be used in the competent courts of the country concerned to confirm the immigrant's rights, contracts drawn up in accordance with the standard form have a still greater value. As they are based on an agreement concluded by the State there is no risk of their being invalidated by some previous legislative provision or regulation or of their not being enforceable. As a rule, moreover, the contracts themselves expressly stipulate that if a dispute should arise between the worker and his employer it must be submitted to a special authority mentioned by name for conciliation or arbitration.

Although standard contracts are employed mainly in connection with bilateral recruiting or labour treaties, they may also be imposed by unilateral measures. Such a step was taken in 1926 by the Polish Emigration Office which required the recruiting of Polish workers for the Rumanian and Yugoslav textile industries to be carried out in accordance with a standard contract drawn up by that Office. A Decree of 10 January 1931 issued by the Director-General of Agriculture, Trade and Settlement in Tunisia, lays down that no foreign worker may be employed in that country except under a contract which must conform to the standard contract annexed to the Decree. In France employers desiring to bring in workers from a country with which France is not

bound by a bilateral agreement must also employ a standard contract drawn up by the authorities.

Standard contracts are far from being uniform and a distinction may also be drawn between contracts proper and applications for workers, and between individual and collective contracts.

In countries in which the admission of emigrant workers is regulated on the basis of standard contracts of employment, employers desiring to engage labour from abroad must, in the first instance, apply to the competent authorities for permission, and if the application is approved a new document is prepared which must be signed by the two parties. In some cases, however, there is only a single document, which is regarded as an application when it is submitted for approval and as a contract after approval has been obtained and the parties have put their signatures to it.

As a rule, collective contracts, by which groups of workers are engaged, must conform strictly to the established standards of conditions of employment, while individual contracts [1] relating to the recruitment of workers singly are merely required to contain no clauses contrary to the agreements between the countries concerned. Moreover, collective contracts deal with such matters as the duties of the leader, upkeep of the common accommodation and preparation of the common meals. Recruitment by families, another form of collective recruitment, is very common in agriculture, though rare in industry. Under this system a single contract is concluded between the employer and the head of the family acting for himself and all the working members thereof. Family contracts must state the number of workers in each family, the number of non-working children allowed having regard to the accommodation available and other particulars and must contain, in addition, a clause guaranteeing separate accommodation for each household. The measures taken by a certain number of countries for the conclusion of contracts of

[1] In the bilateral treaties recently concluded by France, reference is no longer made to " individual " or " collective " contracts, but to " nominal " and " numerical " contracts. In the former the workers are mentioned by name, while in the latter only the number of workers required is indicated. It should, however, be noted that " individual " contracts for the employment of foreign workers in France are not necessarily " nominal " ; considerable use has been made at certain periods and for certain occupations of " blank " contracts, the arrangement being that an intermediate authority allots the immigrants to the different undertakings requiring them, according to the applications received.

employment with migrant workers and the control of such contracts, in particular by means of standard contracts [1], are outlined below.

In *Australia*, according to the Contract Immigrants Act of 1905, for the admission of immigrants under contract for manual labour to be permitted, the contract is required to be in writing, made by or on behalf of some person named in the contract and resident in Australia and approved by the Minister of External Affairs. Such approval, which must be obtained before the immigrant lands, is not given if the contract is made with a view to influencing the course of an industrial dispute, or if the remuneration and other terms are not as advantageous as those of workers of the same class at the place of employment.

Moreover, the Minister must be satisfied that it is necessary to introduce the immigrants on account of difficulty in obtaining the same type of workers in the country, except in the case of a British subject born in the United Kingdom or a descendant of such a person.

If before the Minister approves the terms of the contract the immigrant lands in Australia, the contract is absolutely void, the immigrant as well as the employer are liable to a penalty, and the latter must also pay a sum of money sufficient either to maintain the immigrant until he can reasonably be expected to find suitable employment or to enable him to return to the country from whence he came.

In *Bolivia*, under the Immigration Act of 20 January 1927, the conclusion of the contract and the preparation for embarkation in collective recruiting must be supervised by a representative of the Bolivian Government, who is required, in particular, to take care that the workers are not misled and that the terms of the contract are quite clear.

In *Brazil*, in the State of São Paulo, according to Decree No. 2400 of 9 July 1913, immigrants intending to take up paid work may not conclude contracts abroad; all contracts must be concluded at the Official Employment Agency and conform to the terms of the Decree. "Settlers" (rural workers) and others obtaining employment through the official agency or one of its branches are given a "labour book" containing extracts of the main legislative provisions applicable to agricultural work and setting forth the concessions granted to immigrants as well as the duties of the Official Employment Agency, or a certificate of engagement. The book also includes a standard contract and specifies the items in respect of which a special agreement is required between the parties.

According to the standard contract, reference must be made in every contract to the facilities for transport from the nearest station to the plantation, which must be provided free of cost to the worker and his family, the provision of quarters and animals required for work, the circumstances in which the employer or the worker may cancel the contract, as well as the settler's obligations, including those of joining the co-operative societies formed by the Agricultural Aid Society (an official body) for the provision of

[1] For a detailed analysis of the clauses of the principal standard contracts in use since the war for the recruitment or employment of migrant workers, particularly in Europe, see *The Migration of Workers*, Part III, Chapter II.

medical assistance, drugs and educational facilities, and of submitting all disputes relating to the proper enforcement of the contract to the chairman of the municipal agricultural committee. It must also be stated in the contract that it is prohibited to advance money to the worker on account of wages except in case of sickness and that all stores issued to him are to be inscribed in the " labour book ".

The extent of the land to be taken over for cultivation, the sums to be advanced to the worker for that purpose, the various heads (wages, allowances, deductions, etc.) under which accounts are to be rendered every year, and the settler's right to plant on his own behalf, are to be settled by special agreement.

In the State of *Minas Geraes*, according to Decree No. 6990 of 24 September 1925, settlers or other agricultural workers such as jobbing contractors, managers, carters, wagoners, mechanics, etc., must be engaged through the Ministry of Agriculture, a contract of employment being required in each case containing the general clauses set forth in the standard contracts appended to the regulations as well as special clauses dealing with questions to be settled by the parties. The contracts, which must show the dates of the commencement and termination of the engagement, are also required to be registered with the Agricultural Office.

In the State of *Bahia*, under the regulations issued on 4 January 1926, a contract of employment in accordance with the standard contract appended to them, must be concluded in respect of each settler or other agricultural worker engaged and registered with the Labour Office. All transactions between the employers and workers or the landowners and settlers who have concluded an agreement through the Ministry of Agriculture must be entered in a labour book issued by the Immigration Office.

In *Canada* child immigrants taken under the auspices of a philanthropic society are placed in homes, an agreement being drawn up between the employer and the society. Children of 14 years of age and upwards are generally placed out under a wage agreement, provision being made for a periodical settlement between the employer and the society. The employer deducts expenditure on clothing, pocket money, etc., which he has provided during the period and remits the balance to the society, by whom it is placed in a trust fund to the child's credit in a bank. The wages thus paid accumulate until, at the age of 18 or, in certain cases, at the age of 21, the child ceases to be in the care of the society [1].

In *China*, according to the Emigration Act of 21 April 1918, all contracts, whether concluded under a bilateral agreement or otherwise, except those made by the Government, must be approved by the Emigration Bureau. Such contracts must comply with the regulations of 3 May 1918 and be drawn up both in Chinese and in the language of the employer. They must state the period of the engagement, the length of the working day (maximum ten hours) and the rate of pay, which must not be less than that of the nationals of the country of immigration of the same category, provide for a deduction of 20 per cent. from the wages to be sent to the emigrant's family through the medium of the Emigration Bureau and mention the rate of the family allowances paid by the employer through

[1] GREAT BRITAIN : *British Oversea Settlement Delegation to Canada*, London, 1924, Cmd. 2285.

the same channel. The employer must defray all the expenses of the outward voyage of the workers (passport fees, fares, etc.) and those of dependants accompanying them or joining later. On the termination of the contract the workers are to be entitled to return to China or to the place where they were recruited at the expense of the employer. They retain this right if the engagement is prolonged or another contract made. In the event of sickness, they must be attended to at the cost of the employer, and if they become permanently disabled, they must be repatriated at the employer's expense. The contract must further specify the workers' right to compensation in the event of an accident connected with their work and define their other rights.

A revision of these regulations was approved by the Government on 13 October 1936, and accordingly, emigrant workers are required to sign an employment contract prepared by the Committee on Oversea Affairs. If the work to be undertaken is hazardous, the employer must provide accident insurance. If work is stopped before the expiration of the contract, the repatriation expenses as well as the full wages due must be paid by the employer.

In *Colombia*, under Immigration Act No. 114 of 30 December 1922, the port authorities are required to supervise the recruiting of workers for employment abroad. They must further make sure that the conditions of employment in respect of wages, assistance in the event of sickness or accident and repatriation are adequate and that such conditions are guaranteed by the employer by a written contract and the deposit of a security.

In *Costa Rica*, according to the Emigration Act of 28 October 1922, a foreign employer must obtain a permit from the Government for recruiting workers, and in applying for it is required to state the nature of the work on which the emigrants will be engaged, the length of the working day, the duration of the engagement, the conditions of work (wages, board, medical attendance, transport, housing and repatriation) and the other clauses to be included in the employment contract.

In *Czechoslovakia*, in the case of emigration to European countries under the Act of 15 February 1922, before he proceeds abroad the emigrant must be furnished with a written contract of employment in his own language as well as in that of the employer stating the nature of the work for which he has been engaged, the period for which employment has been guaranteed and the conditions of work (normal hours of work, wages, time rate and piece rate, overtime pay, payments in kind and period of payment, obligations of the employer in the event of illness, accident or death). Other particulars to be specified are the notice to be given to terminate the contract and the conditions under which it may be annulled by the employer or the worker, the party to be responsible for the expenses of the outward and homeward journeys and the amount to be paid by way of an advance, if any, as well as the place and date of payment.

The contract must further guarantee that the undertaking for which the workers are recruited is not involved in a strike or a lock-out. The conditions of employment and wages must be at least equivalent to those of national workers of the same category. In the case of men, it must be laid down that a leave of absence will be granted of not more than three days, without any deduction from the wages in excess of the daily rate customary in the locality,

for purposes of compulsory military registration with the Czechoslovak authorities.

Any stipulations by which the worker renounces his legal remedies in case of a dispute relating to enforcement, or is required to make a deposit exceeding the amount of his wages for a month, or is placed in a less favourable position in respect of the termination of the employment than by the laws of the emigration country, will render the contract null and void.

In *Denmark*, under the Act of 1 April 1912 regulating the employment of foreign workers, the employer is required to draw up a contract not later than a fortnight after the arrival of the worker at the place of employment and to use for this purpose the form issued by the Ministry of the Interior. The worker must also be provided with a paybook in which the wages paid are to be entered each time a settlement is made. Moreover, the contracts must state the circumstances in which they may be cancelled by the parties before the date of expiry, the conditions of work (rate and manner of payment of wages, hours of work, days of rest) and how the cost of the outward and homeward passage of the worker is to be met. The inclusion of any provision in the contract calculated to enable the employer to exact fines for unsatisfactory work or negligence is prohibited.

In *France* the employment of foreign workers recruited in large groups is usually regulated by an agreement with the emigration country. In such cases the conclusion of an employment contract in conformity with the standard contract approved by both the Governments is as a rule required. These standard contracts, which differ from trade to trade, are drawn up either with a view to implementing in detail a general labour agreement laying down the main principles (as, for example, the standard contracts for Belgian, Czechoslovak, Italian and Polish workers) or, when no such treaty has been concluded with the emigration country, as a mere administrative arrangement between the competent departments of the two countries (as in the case of the standard contracts used at various dates for Austrian, British, Lithuanian, Swiss or Yugoslav workers).

In cases in which no such standard contract has been established, French employers desiring to recruit foreign workers are required to make their applications in an approved form devised to ascertain the conditions of employment.

As a rule the contract must state the nature of the work, duration of the engagement, wages (which must be equal to those of French workers of the same category, for which reason it is sometimes provided that they may be subject to changes from time to time), supplementary payments for overtime and work performed during the night or on holidays (the normal hours of work being those fixed by law) and arrangements made for the board and lodging of the workers as well as for their transport with an indication in either case of how the cost is to be met (for instance, a sum of 50 francs being paid to the worker in respect of his homeward journey for each period of six months' work and in case of dismissal on the ground of *force majeure*). The contract must, in addition, contain a clause to the effect that all disputes between the employer and the worker must be immediately brought to the notice of the Foreign Labour Department of the Ministry of Labour.

In *Germany*, according to the Order of 2 January 1923 amending the Order of 19 October 1922, a contract, in accordance with the standard contract drawn up by the Agricultural Committee of the Federal Employment Office [1], must be concluded with all foreign workers employed in German agriculture. Any deviation from the standard contract calculated to affect adversely the interests of the workers concerned is to be null and void, and the appropriate provisions must be substituted for such clauses.

In *Guatemala* a copy of the principal clauses of the contract indicating the nature of the work to be done, duration of the engagement, wages, hours of work, conditions of board and lodging of the workers and the climatic conditions in the place of employment must be attached to the applications for workers from foreign employers. Individual contracts must be signed by the worker in the presence of a representative of the administrative authorities of his place of residence, the obligations arising from the contract and the legal consequences thereof being explained to him.

Immigration contracts, which are regulated by the Act of 30 April 1909 and must be concluded under the supervision of the Ministry of Economic Development, must be drawn up in the prescribed form and conform to national laws and customs. The duration of the engagement may not exceed four years and wages must be paid in the currency stipulated in the contract or in the national currency. Hours of work are not to exceed eight per day and the employment of children under twelve years of age is prohibited. While engagements concluded on behalf of the State are not subject to these regulations, the approval of the Supreme Council or the competent Ministry must be secured in every case.

In *Honduras* authorisation from the Government is required for the employment of foreign workers by agricultural and industrial undertakings. Applications for such workers must state the name of the undertaking in which the immigrants are to be employed, their number and nationality, the nature of the work and the conditions of employment. The enforcement of the contracts is strictly supervised by the Government.

In *India*, while a contract properly so called is not compulsory and is or has been even prohibited in some cases in respect of engagements for a period exceeding one month, the agent responsible for organising recruiting for a country to which the immigration of unskilled workers is permitted is required to submit a statement on the conditions of employment for the approval of the authorities. A copy of this statement, which must be drawn up in English as well as the language or languages of the area in which the recruiting operations are carried on, is required to be given to every worker approached with a view to engagement and a receipt obtained. The statement must set out particulars of the climatic conditions in the immigration country, the nature of the work open to the immigrants, and the general practice with regard to the daily hours of work, days of rest, wages including details concerning deductions if any, housing accommodation, treatment during sickness and supply of rations (cooked or uncooked, free of cost

[1] By the Act of 16 July 1927 relating to employment exchanges and unemployment insurance, the Federal Employment Office was changed into the Federal Institute for Employment Exchanges and Unemployment Insurance, but these regulations continued in force with the necessary administrative modifications.

or on payment). The duration of the journey from India to the place of employment and the nature of the arrangements for it must also be stated as well as the conditions of repatriation, the facilities available in regard to education and the observance of religious rites, the conditions on which grants of land are made to the workers for cultivation and the special punishments, if any, inflicted for labour offences.

In *Italy*, according to the Consolidated Emigration Act of 13 November 1919, in the case of continental emigration a contract of employment must be concluded with the workers in accordance with the standard contract attached to the permit issued to the recruiting agent, and it must be approved by the competent Government Department. If in the immigration country insurance against accidents is not compulsory in the case of foreign workers, the employer's obligation to insure the workers, as in Italy, must be specified in the contract. The contract will be rendered void if thereby it is attempted to transfer the recruiting fee payable by the employer to the workers. Further, contracts of employment drawn up abroad and applications for Italian workers from foreign employers must be certified by a diplomatic or consular agent. The emigration of Italians for the purpose of employment abroad or of engaging in any small business or in order to join relatives was prohibited by Circulars Nos. 75, 76 and 77 of 20 June 1927 unless a regular contract of employment had been concluded or a letter of invitation from the relatives had been received. This regulation, which has since been considerably modified, applied to continental as well as oversea emigration, the only exception allowed being in the case of those who had settled outside Italy and returned to the country for an occasional visit.

In *Japan*, under the Regulations of 1907, an emigration agent must enter into a written contract, which has been previously approved by the administrative authorities with each of the emigrants, whether recruited individually or collectively. The contract must state the term of the engagement, the rate of commission, how the cost of the outward and homeward journeys is to be met, the wages and the methods of payment thereof and the arrangements for tending and repatriating emigrants in case of sickness or distress. Copies of each collective as well as individual contract must be submitted to the governor of the place where the head office of the emigration agent is located and to the Japanese consul at the place of immigration.

In *Mexico*, according to the Constitution of 5 February 1917, any contract concluded between a Mexican worker, salaried employee or domestic servant and a foreign employer must be submitted for approval — which is granted only on condition that the free repatriation of workers is guaranteed — to the Mexican authorities as well as to the consul of the country of destination. This provision has been embodied in the Migration Act of 12 March 1926 and in Decree No. 2308 of 13 August 1923 of the State of *Jalisco* promulgating the Labour Code.

In the *Netherlands*, according to an Act of 31 December 1936, all contracts for work abroad must be made in writing and must specify the rights and obligations of the parties concerned. The public authorities may, in addition, claim from the employer a guarantee that the terms of the contract will be observed.

In *Nicaragua*, under the Decree of 7 February 1923, foreign employers applying for permission to recruit workers must at the same time submit a standard contract for the approval of the Government.

In *Poland*, according to the Decree on Emigration on 11 October 1927, a contract drawn up in Polish as well as in the employer's language must be concluded with every worker recruited for employment abroad before his departure, and submitted to the Emigration Office for approval. The contract must include the employer's name as well as the place and nature of his undertaking, a description of the worker and his place of residence, the nature of the work to be done, the duration of the engagement and the grounds on which the contract may be cancelled, the conditions of work (hours of work, holidays, wages and other forms of remuneration, etc.), the employer's obligations in case of sickness, accident or death and the arrangements relating to the outward and homeward journeys. A statement must also be included in the contract to the effect that the workers will not be employed in undertakings involved in a strike or a lock-out and that, so far as the conditions of work and wages are concerned, the principle of equality of treatment will be applied. The machinery for settling disputes between the parties regarding the enforcement of the contract must also be specified.

In *Portugal*, according to the Emigration Regulations of 1919, a regular contract of employment in the form specified in these regulations must be concluded with every worker recruited for employment abroad, and the contract must state the duration of the engagement in full calculated from the date of the departure of the emigrant from his place of residence, the actual period of service in the immigration country and the wages, the value thereof in Portuguese money being indicated. Recruiting operations — and even mere propaganda in favour of emigration — are prohibited until the terms of the contract have been approved by the Government.

In the *United States of America*, under the Immigration Act of 1917 and the Rules of 1 March 1927 under the Act, the admission of foreign workers is strictly regulated and employers' applications for them are carefully scrutinised and must state, as has already been pointed out, details of the conditions of work, etc.

In *Venezuela*, under the Act of 26 June 1918, contracts of employment with immigrants must be approved by the Central Immigration Committee, and are required to conform to certain specified conditions. The duration of the engagement may not exceed four years in the case of agricultural workers, two years in that of industrial workers and one year in that of salaried employees and domestic servants. Wages must be paid every week and in cash. In the absence of any stipulations to the contrary in the contract, board must be provided, and free quarters must also be furnished to workers' families for one year. Moreover, in the case of workers engaged for estates and agricultural undertakings, the contracts must specify that at least four hectares of suitable agricultural land will be provided for each family for the purpose of cultivation, together with the necessary advances for the building of a house and the purchase of implements, seed and animals. Such workers may not be required to work for more than four days a week during the har-

vest or for more than three days a week during the rest of the year, so that they may have sufficient time for cultivating the land. The value of the allotment is estimated before it is taken over by the worker, who may either acquire the land at the end of the term of his contract by paying for it at that rate or claim compensation for the improvements effected by him. Applications from employers must in addition to indicating the number and kind of the foreign workers wanted (occupation, race, nationality, age and sex), state the hours of work, wages and nature of the housing accommodation, an assurance being required from the applicants at the same time to the effect that they will meet the cost of the journey from the port of disembarkation to the destination.

In *Yugoslavia*, according to the Regulations of 24 November 1925, employers are required to sign a contract with all the foreign workers engaged by them, guaranteeing equality of treatment with national workers of the same class. The contract must conform to national legislation, as regards hours of work, and specify that the workers are entitled to the repayment of any expenses incurred by them for transport. The contract must be countersigned by the police and a copy communicated to the competent factory inspection authorities within fifteen days of the workers taking up their duties.

§ 3. — Measures to ensure the Execution of the Contract

By Countries of Immigration

There are two ways in which the rights and interests of foreign workers are generally protected; they are either assimilated to national workers, the same treatment being accorded to both, or a special system is established for immigrants. Thus, immigrants who have settled in a country may be allowed the right of appeal to the courts in the event of a dispute with their employers on the same terms as nationals. This right, however, sometimes excludes recourse to diplomatic action except where redress is denied (as specified in: Ecuador — Constitution of 1896-1897; Guatemala — Immigration Act of 1909; Honduras — Constitution of 1924; Mexico — Constitution of 1917; Peru — Land Settlement Regulations of 28 January 1927; Venezuela — Aliens Act of 23 July 1925). In certain instances, immigrants are prohibited from organising a system of law courts for their own use; in Newfoundland, for example, it is expressly stated in the Consolidation Acts that Chinese immigrants may not set up institutions for judging offences committed by any of their number. While no attempt will be made here to review in detail the measures for ensuring the application of contracts in each country, some of these methods are outlined below, as examples.

In *Australia*, in *New South Wales*, the Minister for Labour and Industry is empowered by the Juvenile Migrants Act of 1926 to appoint training farms for the reception, control and training of juveniles for rural employment, and the wages or earnings due from any person to a juvenile may be sued for and recovered by the juvenile, or in the name of the Minister by some person authorised by him.

In *South Australia*, under the Immigration Act of 1923, the Director of Immigration may appoint institutions for the reception, detention, education and employment of girl or boy immigrants who come into the State, and may sue for the recovery of any wages or earnings due to an immigrant. He is further empowered to institute a fund called the "Immigrants' Sickness and Accident Fund" formed by contributions from or on behalf of the immigrants for defraying expenses or losses incurred by them by reason of sickness or accident.

In *Brazil*, in the State of *São Paulo*, under Act No. 1299 A of 27 December 1911, an organisation for the protection of agricultural workers entitled "Patronato agricola" has been set up, which is required to supervise the conclusion of contracts of immigrants and their "labour books", deal with all disputes between employers and workers, bring to the notice of the competent authorities any attacks made on the person of the immigrant or on his family and property and organise in the settlement centres (nucleos coloniaes) mutual aid societies for medical assistance, the supply of drugs, elementary education and compensation for accidents arising in the course of work.

In *Canada*, where children and young persons sent by private persons or organisations in Great Britain are admitted, the Superintendent of Juvenile Immigrants and a number of inspectors of the Department of Immigration and Colonisation are required to examine the arrangements made for their employment and residence and are empowered to order the removal of juveniles whose working and living conditions are not considered satisfactory. Similar supervision is also exercised in the case of women immigrants through women inspectors. Moreover, in the provinces of *Alberta*, *Manitoba*, *Nova Scotia* and *Ontario* the protection of juvenile immigrants is regulated by special legislation, permission from the Lieutenant Governor being required in Alberta, for instance, for the placing of immigrant children by an agent or an organisation and the operations being subject to the supervision and inspection of the Superintendent of Child Welfare.

In *Denmark*, according to the Act of 1 April 1912, the employer must provide adequate medical assistance to the immigrants, insure them against sickness with a mutual aid society approved by the Minister of the Interior, supply suitable housing and maintain it in good order, inspectors being required to visit the lodgings and ensure that a contract of employment has been concluded in writing and that it is properly enforced. In the event of disputes between employers and workers, the local chief of police may, at the request of either party, try to bring about an agreement by personal intervention and interpretation of the terms of the contract, and the police courts are authorised to hear cases.

In *France*, in the contracts of employment of foreign workers, a clause is required to be included to the effect that all disputes are to be referred to the labour services of the competent Ministry. Supervisors attached to the district employment offices of the Ministry of Labour, who are well acquainted with the language and customs of the immigrants and act in co-operation with the labour inspectors, are required not only to settle differences between employers and workers but also enquire into the living and working conditions of the latter, ensure that the principle of equality of treatment is given effect to in practice and assist in placing operations.

The need for measures to ensure not only the observance of contracts but also the co-ordination of activities for the special protection of certain categories of workers has caused the competent French authorities to set up local committees with which the official inspection services and private protection associations co-operate. Since December 1928, in agreement with the authorities of the emigration countries, departmental committees for the assistance and protection of immigrant women [1] have been established in France. After a certain interval on account of the economic depression, these committees were reorganised by a Decree of the Minister of Labour dated 9 April 1937 in those Departments where immigrant women were employed in any considerable numbers for agricultural work. These committees, which are presided over by the Prefect of the Department and under the authority of the Minister of Labour, are composed of members of the competent official labour inspection services and of placing, instruction and public assistance services, of members appointed by the Minister and chosen from among representatives of French social assistance or immigrant aid associations, and of other duly qualified persons. Representatives of local agricultural groups and, if necessary, of foreign protection associations, may be added. The committees may provide for the services of women inspectors to give assistance of a social nature to women employed in agricultural undertakings and also to enquire into disputes involving foreign agricultural workers of either sex.

Under the terms of the Decree the functions of these committees are to give, within the framework of existing laws, regulations and conventions, moral and if necessary material assistance to foreign women employed in agriculture, as well as to consider any improvements that might be made in the arrangements for the immigration of women agricultural workers in general with a view to making recommendations to the Minister of Labour. Each inspector must keep a record of her activities, both in regard to inspection work and the settlement of disputes. The Decree also provides that in addition to the permanent co-operation of the competent local services, officials of the appropriate services of the Ministry of Labour may be present at meetings of the committees.

Somewhat similar arrangements have been made for the protection of young industrial immigrants from *Italy*, in accordance with the *Franco-Italian* Treaty of 30 September 1919.

In *Paraguay*, under the Act of 13 June 1920, the Director of the Immigration Section is required to examine any complaints from

[1] For an account of these committees cf. *The Migration of Workers*, p. 189.

immigrants as regards the enforcement of their contracts and to inspect the official and private settlements in the country.

The question of the settlement of disputes between the parties concerned is also dealt with in standard contracts appended to bilateral treaties, but, as a rule, they mention only the authorities to which the matter is to be referred. Standard contracts for employment in France, as has already been stated, require that the workers should address their claims to the competent authorities of the immigration country, although provision is made, in some instances, for the transmission of such claims through the consular or diplomatic authorities of their own country. In the case of Polish workers recruited for mines in Belgium and the Netherlands and for industrial employment in Rumania, however, it is laid down that all claims are to be addressed exclusively to the Polish consul. In the case of Polish workers recruited for agricultural employment in Belgium, it is provided that the workers are to forward their representations to the consular authorities and the employers to the Federation of Agricultural Employers.

According to the standard contracts for workers recruited for agricultural employment in Germany, all claims, whether proceeding from the employers or the workers, were dealt with by the German Central Office for Workers and settled, as far as possible, on the spot; the labour courts competent to try cases in which the parties have decided to take legal proceedings were also mentioned. A similar provision is included in contracts for Czechoslovak seasonal workers recruited for Austrian agriculture, the Czechoslovak consul and the Central Office for Seasonal Agricultural Labour at Vienna being the agents authorised to settle disputes on the spot by sending, if necessary, a joint committee and a special court of arbitration being set up for hearing cases.

By Countries of Emigration

In recent years, with the increasing regulation of migration movements, there has been a perceptible tendency on the part of emigration countries to establish a system of protection for their nationals abroad. The majority of countries, in virtue of privileges acquired by consular treaties, maintain representatives abroad entitled to protect their respective

nationals. This system of protection is sometimes further extended by the appointment of special agents for the purpose of ensuring that there has been no irregularity, such as error or the use of fraudulent means or of undue pressure in the recruitment of emigrants, and that the terms of the contract under which they were engaged are properly fulfilled.

Czechoslovakia. — According to the Regulations of 8 June 1922 (section 45) the Minister of Social Welfare may appoint special officials and emigration inspectors and commissioners, with the necessary staff, for the protection of emigrants abroad in places where the need for them is felt.

Haiti. — The Emigration Act of 28 February 1924 (section 17) empowers the Government to appoint special agents for the protection of Haitian workers abroad.

India. — Agents are appointed by the Government of India to supervise the execution of the provisions of the Emigration Act in countries to which the emigration of unskilled workers is permitted. These officials are required to look after the welfare of Indian emigrants, obtain information, and forward annual reports to the Governor General in Council concerning the conditions affecting emigrants. They must, as far as possible, protect and advise all classes of Indian emigrants, and bring any requirements of such emigrants to the notice of the proper authorities in India or in the country in which they are appointed.

They are further required to inspect emigrant vessels on arrival and to keep registers of arrivals and departures ; they visit places where emigrants work and reside, and satisfy themselves that the conditions in which emigration is permitted are being strictly observed. In carrying out these duties, the agents act in co-operation with the Immigration Department of the Government of the country in which they are appointed.

When the Government does not appoint an agent to provide the necessary protection for emigrants, the Governments of the immigration countries permitted to recruit unskilled labour in India must themselves appoint an official to perform such duties. (Rules of 10 March 1923, section 56, and Notifications regarding Emigration to Ceylon and Malaya, February 1923, sections 6 and 7.)

Italy. — The consolidated text of the Emigration Acts (section 8) states that " offices for protecting emigrants, for supplying them with information, and for getting them into employment shall be established by agreement with the Governments concerned or otherwise in countries to which Italians emigrate ". Regular inspections are also to be carried out by these officers on board vessels transporting emigrants, both at intermediate ports and at the final destination. Accordingly, a number of offices have been set up in European as well as North and South American countries.

Japan. — An emigration agency may not send emigrants to countries where it has no representative, and such representative may not absent himself without previously having requested permission from the Japanese Government and without having been replaced. He is required to keep a register of Japanese emigrants sent out by the agency, to note their occupation, the name of their

CHAPTER IV

REPATRIATION

The repatriation of migrant workers is one of the most serious and complex problems connected with migration, and the importance of solving it in a spirit of social justice has been clearly brought out by the recent depression.

The problem presents different aspects according to whether repatriation is voluntary and occurs on the expiration of the migrant's contract or because for some other reason he wishes to return to his country of origin, or to whether it is forced upon him by the laws and regulations for the admission of foreign workers and their stay in the country or for the protection of the national labour market, or by a more or less arbitrary decision of his employer.

The first aspect of the problem does not call for any particular observation: generally, the conditions of repatriation on expiration of contract, whether it be in the case of individual or collective migration, are governed by the contract itself or by agreements between the two Governments concerned. This is particularly true of the various seasonal migration movements which take place in Europe.

Repatriation may, on the other hand, have extremely serious consequences for the migrants if, in the case of expulsion or rejection on arrival, it is forced upon them without their having had any reason to expect it or prepare for it, but on the contrary have made or have contemplated making arrangements for their installation and stay in the country. Although, as will be seen below, a large number of countries have made provision in their legislation for such repatriation, charging the expense either to the transport undertaking or to the employer, there are nevertheless serious omissions and a lack of uniformity in the regulations which greatly hinder migration movements and are a source of disillusionment to the

migrants. In fact, the legislative provisions and the bilateral agreements which govern repatriation of this kind mainly concern, as will be seen later in this chapter, organised seasonal migration or the return journey of oversea migrants who have not been permitted to disembark.

The most serious aspect of repatriation is that for which there are as yet no adequate regulations at all and that is the large-scale repatriation of foreign workers for economic reasons. The importance of this has been emphasised by the recent depression. An analysis of the various return movements which characterised the depression is outside the scope of the present Report, but it may be mentioned that since 1931 migration movements have been reversed and in the principal traditionally emigration countries (Great Britain, Italy, Mexico, Poland, Yugoslavia, etc.) the return movement of migrants (repatriation) has been consistently greater than the outward movement. This is confirmed by the statistics of immigration countries : for instance, according to an official estimate,[1] the number of foreign workers who left France between the beginning of 1931 and the middle of 1932 amounted to 450,000, and during the first two years of the depression 300,000 workers returned to Mexico from the United States.

Certainly this repatriation of foreign workers seems to many people in the immigration country a normal reaction on the part of the State on whom falls the responsibility of protecting its nationals. When a crisis arises, sometimes on a scale and with a suddenness which is disconcerting, it would seem that some order of priority of employment on account of decreased possibilities of finding work is inevitable for workers in the same district, and local public opinion requires that preference should be given to nationals. As the crisis develops the proportion of foreigners who lose their jobs tends to grow ; the expenses entailed by assisting them while they are in the country become heavier, and eventually the repatriation of immigrants is demanded of the public authorities. Such requests do not have an immediate effect, but as the burden of relief persists and becomes heavier

[1] Rapport de M. Joseph Courtier, sénateur, sur la proposition de loi pour la protection de la main-d'œuvre nationale (Sénat, Doc. Parl. Annexe No. 626), *Journal Officiel*, 6 October 1932.

the country of immigration tends to regard the stay of foreigners on its territory as a favour rather than a right, and to take measures for their expulsion which are prompted both by the state of the labour market and by the poverty of the workers in question. These measures only apply at first to immigrants who have been but recently admitted to the country for certain specified work which has by then been completed, or to those who have been in the country too short a time to have been able to prove that they intend to stay or to give any indication of their value to the community or to local economy ; little by little, however, other categories of workers are sent away from the country of residence.

The particular gravity of this kind of repatriation lies in the fact that by its arbitrary character and substantial proportions it places the migrant in an extremely precarious position at a time when his chances of finding employment in his own country, with which he has often severed his connections, are especially small on account of the depression. Furthermore, the return of a relatively large number of its nationals during such a period of world crisis increases the difficulties of the country of origin itself, as in addition to the cares resulting from the state of its own labour market are added those caused by the surplus of workers summarily returned by the country of immigration.

Not only may it seem deplorable that a country which in times of prosperity takes advantage of foreign workers to make good its labour shortage should send these workers back when its labour market is in an unsatisfactory condition, but experience shows that it is doubtful whether such a practice is always justified even from the point of view of the country of immigration. Without taking into account the demographic needs of the immigration country, needs which by their nature cannot be satisfied by the introduction of immigrants followed some time after by their expulsion, economic interests are impaired by large-scale repatriation. The training of workers, especially of qualified workers, is usually a costly process, particularly if to training for the particular job is added adaptation to a fresh national environment. With the return of prosperity the workers who have been sent back, having previously been admitted and trained at great expense, would have to be replaced by others whose immigration and training would mean fresh expense.

In view, then, of the above social and economic considerations the urgency of the problems raised by repatriation cannot be denied.

The various forms of repatriation which have been briefly described above will now be considered in turn.

Rejection on leaving a Country or at the Port of Embarkation

As already mentioned in Chapter II the admission of an emigrant into the country of employment is usually preceded by examinations conducted by the authorities of his country, or the shipping company in charge of the arrangements for his transport, or by official inspectors of the emigration country for the purpose of ascertaining whether all the regulations have been complied with. A worker may be rejected at the frontier or port of embarkation either because he fails to obtain the necessary certificate of physical or occupational fitness, or for some other reason, in conformity with the emigration regulations. The consequences of rejection are often serious to the workers. In a number of countries in such cases the repayment in full or in part of the sum paid in advance towards the passage is required; further, the emigrant may claim compensation from the shipping company or the recruiting agent, or the expenses for the return journey, if it is proved that the rejection is due to their negligence and not to any dissimulation on his part.

In some cases, when permission to emigrate is refused owing to accidental causes, the cost of the return journey is payable by the business firms who are parties to the contract. In certain circumstances the scope of these provisions is extended so as to cover also the worker's family.

In *Belgium*, under the Decree of 25 February 1924 (section 17), if an emigrant or a member of his family is refused permission to embark from a European port by reason of a mistake or negligence on the part of the emigration undertaking, the return of the passage money paid on behalf of all the members of the family may be claimed from that undertaking.

In *Denmark*, according to the Regulations of 28 March 1870 (section 30), any emigrant who is not permitted by the medical inspector on account of his state of health to embark is entitled to the refund of his passage money. If for this reason the members of his family or other persons travelling with him cancel their voyage, the passage money paid by them must be reimbursed. The agent

may nevertheless retain such sum as he may have expended for the maintenance of the persons in question.

In *Great Britain*, according to the Merchant Shipping Act of 1894 (sections 307 and 308), if an Emigration Officer is satisfied that a person on board or about to proceed in an emigrant ship is, by reason of sickness, unfit to proceed or is in a condition likely to endanger the health or safety of the other persons on board, the embarkation of that person is prohibited, or, if he has embarked, he must be relanded, together with members of his family.

Upon relanding, the master of the ship is required to pay to each steerage passenger so relanded, or, if he is lodged and maintained in any establishment under the superintendence of the Board of Trade, to the Emigration Officer at the port, subsistence at the rate of 1s. 6d. per day for each adult until he has been re-embarked or declines or neglects to proceed or until his passage money, if recoverable, has been returned to him.

A person so landed, or an Emigration Officer on his behalf, is entitled on delivering up his contract ticket, to recover summarily in the case of a steerage passenger the whole, and in the case of a cabin passenger one half, of the money paid on account of the passenger and the members of his family relanded.

In *India*, according to the Rules of 10 March 1923 (sections 47-49) under the Emigration Act, an emigrant to whom permission to embark has been refused on the occasion of the examination before embarkation, on the ground that he has been found to be physically unfit, that the provisions of the Act or the rules under it have been contravened in relation to him, or that, after the conditions in the country of destination have been described to him, he has been unwilling to embark, must with his dependants, if any, be returned to his home through the Protector's Office at the expense of the Emigration Commissioner. An emigrant who is to be returned to his home must be examined by the medical inspector and certified by him to be fit to bear the journey, or if not certified fit must be detained under treatment in the place of accommodation until such time as the medical inspector certifies that he is fit to bear the journey to his home.

In *Italy* emigrants rejected at the inspection before departure, for not fulfilling the requirements of admission into the country of immigration, must be given compensation by the company through the inspectorate. Women and minors without relatives, when they are thus rejected, are taken charge of by a local care committee [1].

In *Spain*, according to the Regulations of 20 December 1924 (section 83), if an emigrant is unable to embark because of rejection not due to any fault on his part (failure to possess the required documents being regarded as his own fault), his passage money, as well as that of the members of his family accompanying him if they also cancel their voyage, must be returned.

In *Yugoslavia*, under the Act of 30 December 1921 (section 31), the passage money of an emigrant who is rejected at the medical examination immediately preceding embarkation or is not in possession of a satisfactory passport, must be refunded by the transport undertaking.

[1] " L'Opera degli Inspettorati nei porti ", *Bollettino della Emigrazione*, February 1925, p. 158.

On Arrival in the Immigration Country

On arrival in the immigration country, the emigrants are usually examined anew, rejection at this stage being by no means uncommon either on account of differences in the criteria used in the different examinations or because of lack of thoroughness in the first tests. The repatriation of workers who are thus turned back is usually dealt with in emigration and immigration laws and sometimes, though rarely, also in bilateral treaties.

As a rule emigration laws make it compulsory for the shipping company either to refund the cost of the journey, or to repatriate the emigrant to the place of embarkation or residence, an exception being made only in case of change in the immigration regulations of the country of destination after the departure of the emigrant.

In *Austria*, under the Regulations of 27 June 1921 (section 13), any emigrant who has been rejected in accordance with the terms of immigration laws is required to be repatriated up to the port of departure by the transport company, and if he is not in possession of the necessary means for the journey to the place from which he had started, the company must also pay for the expenses of the land journey including the cost of transporting the luggage.

In *Belgium*, in accordance with the Order of 25 February 1924 (section 17), if by reason of a mistake or negligence on the part of an undertaking, one of the emigrants or a member of his family is rejected by the country of immigration the return of the passage money may be claimed from that undertaking.

In *Czechoslovakia*, under the Act of 15 February 1922 (section 26) and Ordinance No. 170 of 8 June 1922 (section 32), if an undertaking transports an emigrant who is not entitled to be admitted into the country of destination, it is required to repatriate him free of charge, by the same class as that by which he travelled in the outward voyage, to his last place of residence, at the earliest possible opportunity, or, if that place is situated outside the frontiers of Czechoslovakia, to give him free passage as far as the frontier station. The cost of maintenance of the emigrant during the journey, as also the expenses arising out of an unjustifiable postponement thereof, must be borne by the undertaking.

In *Denmark*, under the Emigration Act (Article 14), if an emigrant is refused permission to disembark in a country to which he has travelled or in the foreign port in Europe from which he was to sail for a foreign destination, the emigration agent must make arrangements for his return voyage (including board) free of charge to the place from which his outward ticket was available.

In *Greece*, under the Act of 24 July 1920 (section 18), emigration agents are required to take back at their own expense to the port

of departure any emigrant rejected in America or elsewhere for reasons which held good at the time of his departure from Greece. They are also required to return the passage money to the emigrant and to compensate him for any loss which he may have suffered by their fault, even if it is only slight negligence. On the other hand, agents may require the emigrants to provide them with all the information necessary for making sure that they have fulfilled the conditions of admission to the country of destination.

In *Hungary*, under the Emigration Act of 1909 (section 26), an undertaking transporting persons whose passports are not in order must provide them with a return passage at its own expense.

In *Italy*, according to the Consolidated Text of the Act of 13 November 1919 (section 29), an undertaking is responsible for any damage caused to the emigrant if, in pursuance of the immigration legislation, he is rejected by the authorities of the country of destination, provided it can be proved that these legal requirements were known to the undertaking before his departure ; it must principally make itself responsible for the expenses of the return journey.

In *Lithuania*, under the Act of 18 July 1922 (section 13), an undertaking transporting emigrants to a foreign country contrary to the regulations concerned must repatriate every one of them free of charge.

In *Poland*, in cases where persons with whom the undertaking has entered into a transportation contract under the Order of 11 October 1927 are not allowed for any reason to land in the country of destination, or if they are sent back during the journey, the undertaking shall be bound to convey them back to their place of residence free of charge and refund them the fare paid. The undertaking shall be under the same obligation with respect to the members of the emigrant's family if the head of the family dies or is not allowed to enter the country of destination and they desire to return to Poland. In all these cases the conditions of the return journey shall not be less favourable than those of the outward journey.

In *Portugal*, according to Decree No. 5624 of 10 May 1919 (section 12), emigration agents, who are liable for any losses sustained by the emigrant if he is not accepted by the enterprise or by the person on whose account he has been engaged, must provide for his repatriation and meet all the expenses connected with it. However, in the event of his falling ill during the voyage, repatriation is to be confined to those cases in which, after medical examination, the Portuguese consul, or an Emigration Officer of the Portuguese Government, declares that the return voyage will not be harmful to the emigrant.

In *Rumania*, under the Act of 11 April 1925 (section 31), when an emigrant is rejected by the country of immigration in virtue of statutory rules in force at the time of the conclusion of the transport contract, the undertaking or agent is responsible for the cost of repatriating him. The emigrant is, in addition, entitled to compensation, to be fixed by the Ministry, as well as damages which may eventually be awarded by a court of law.

In *Spain*, according to the Consolidated Text of the Emigration Acts of 20 December 1924 (section 47), as a general rule, an emigrant rejected by the authorities of the country of destination must be repatriated immediately by the undertaking at its own cost ; never-

theless, the full fare for the return passage may be charged if the rejection is due to changes in the regulations governing admission which could not be known at the time the contract between the emigrant and the undertaking was concluded. Should the emigrant not be in possession of the necessary funds, the Consular Emigration Committee may require him to be repatriated by the shipping company free of charge, such free passage being reckoned as equal to the two homeward journeys at half rates that the licensed companies are required to provide under the Emigration Act.

In *Sweden*, by the Ordinance of 1884, the emigration agent is required to repay the emigrant the cost of his passage and repatriate him free of charge, if the latter is refused permission to disembark by the competent authorities of the immigration country and if this refusal in not based on circumstances which have occurred since the conclusion of the contract.

In *Yugoslavia*, under the Act of 30 December 1921 (sections 19 and 20), if an emigrant is refused admission by the immigration authorities in the State to which he has travelled, in accordance with local laws, the shipping company is required to give him a return passage at its own expense.

Immigration laws[1] also frequently make the shipping company responsible for the return journey of a rejected immigrant, except in the case of those who are guilty of dissimulation. They do not always specify that the rejected immigrant should be repatriated not merely up to the port of embarkation, but as far as his actual destination, which is an important consideration for the worker. The main purpose of these laws, which are very numerous and cover a variety of subjects such as the admission of political refugees, racial restrictions, etc., is, however, to prevent clandestine immigration.

Repatriation following rejection, as has already been observed, is seldom dealt with in bilateral agreements. Such regulation is rendered more or less superfluous, so far as inter-continental migration is concerned, in view of the obligations of shipping companies in this respect. As regards continental migration, however, the position is somewhat different, as, in this case, migrants are, as a rule, transported by land and the transport agent has no responsibility for their return journey. Of the comparatively few agreements containing provisions on this subject, the following examples may be mentioned.

According to the *Austro-Czechoslovak* Administrative Agreement of 24 June 1925 concerning the immigration of Czechoslovak agri-

[1] Cf. INTERNATIONAL LABOUR OFFICE: *Migration Laws and Treaties* (Studies and Reports, Series O, No. 3), Vol. II, pp. 302-311.

cultural workers to Austria, the repatriation at the frontier is guaranteed by a repatriation fund attached to the Central Agricultural Labour Office in Austria and constituted by contributions from the employers. The *Franco-Polish* Protocol of February 1925 specifies that the employer must pay the cost of the return journey in the case of workers who, on their arrival, are recognised to be sick and whose state of health prevents them from working. Similarly, the standard contracts for employment in France of Austrians, Czechoslovaks, etc. and in Belgium of Polish agricultural workers stipulate that workers who, on arrival at their destination are refused employment for health reasons, shall be repatriated at the expense of the undertaking except in the case of fraud on the part of the worker at the time of his medical examination in the country of origin. The practice of giving a voucher to seasonal workers rejected at the frontier, entitling them to a return ticket to their place of residence, at a reduced fare, has been followed in Germany in the case of Polish immigrants.

The question of rejection after the whole or a substantial part of the journey has been completed, which is a matter of no small concern to the migrant, was considered by the International Emigration Commission of 1921, when the following resolutions were passed :

> " 20. Every member should make provision for an effective examination of migrants in every port where emigrants embark and if desirable at the chief points of the frontier through which emigrants pass.
>
> " With the object of reducing the chances of rejection by the country of immigration and to prevent the development of contagious diseases en route, the said examination should bear chiefly on the following points :
>
> " 1. Whether the emigrants have complied with all the conditions required before their departure.
>
> " 2. Whether they satisfy the provisions in force in regard to entry into the country of immigration.
>
> " 21. It would seem to be desirable that special conventions made between the States concerned should stipulate the conditions under which examinations of emigrants shall take place ; the manner in which countries of emigration and immigration shall provide for such examinations in their respective ports or at their frontiers ; the conditions under which admission to the countries shall be secured ; the form to be given to certificates and other necessary documents ; and any other provisions concerning emigration, immigration and repatriation."

The second International Conference on Emigration and Immigration which was held at Havana in 1928 also adopted resolutions on the subject, one of which relates to measures to guarantee the repatriation of rejected emigrants and the other to co-operation between the services of the countries

of emigration and immigration with a view to determining before the embarkation of the emigrant that he is not likely to be rejected by the country of destination.

During Residence in the Immigration Country

The repatriation of migrants who are incurably ill, or in indigent circumstances due to the death of persons supporting them or through *force majeure*, is generally provided for in the emigration laws of a number of countries. These provisions usually tend to make it compulsory for shipping companies holding a licence for the transport of emigrants to supply return tickets at reduced rates through the consular authorities, who in turn receive allowances from the respective Governments to cover the cost of such assistance. A few immigration countries like Brazil or the United States enable immigrants in these circumstances to return to their own country by means of suitable grants. Repatriation of this kind, which is ultimately only a form of poor relief, is also dealt with occasionally in the more general bilateral treaties of commerce, residence, amity, etc.[1]

Various other forms of repatriation are also current such as expulsion or deportation or what is known as voluntary repatriation, which last consists in the immigrants being persuaded to return to their own countries by means of special facilities placed at their disposal, as for instance reduction in the railway or steamship fares, or subsidies of one kind or another. All these measures, which concern immigrant workers who are reduced to poverty or are likely to some extent to defleet the currents of migration, are for the most part brought into effect in times of depression.

In order to prevent excessive pressure of this kind being brought to bear on the migrants, the States directly concerned have often entered into negotiations. Germany and Czechoslovakia, for instance, agreed, by a Protocol of 28 April 1923 and an Exchange of Notes of 2 May of that year, that no national of either country employed in the other should be expelled merely because of his losing his job or on account of a shortage of food or housing in the country of residence,

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[1] Cf. *Migration Laws and Treaties*, Vol. I, Chapter X; Vol. II, Chapter X; and Vol. III, Chapter V, § 5.

always provided that he was entitled to unemployment relief there or had other lawful means of subsistence.

The *French* Government declared at the beginning of 1935 to the governments of European emigration countries that it would examine sympathetically requests for the renewal of workers' cards presented to it by the nationals of these countries when they justified an uninterrupted stay of at least five years in France, obligatory military service not being counted in the length of stay and not being considered as an interruption of the stay. A protocol was signed in Paris to this effect on 16 June 1935 between the *Belgian* and *French* Governments.

It may also be recalled in this connection that several of the workers' representatives on the Committee on Unemployment Insurance and Various Forms of Relief for the Unemployed set up by the International Labour Conference at its Seventeenth Session (1933) expressed the view that, when a State agrees to apply the principle of equality of treatment to foreign workers, it thereby implicitly undertakes not to expel such workers from its territory for the sole reason of their being unemployed.

Organised Repatriation

In addition to measures applicable to migrants in general, special provisions on repatriation are usually included in national laws and bilateral treaties regulating the migration of workers in particular. The repatriation of an emigrant often normally follows the termination of his contract of employment. In a number of countries, the law requires that the written contract with each emigrant should state explicitly the obligation of the employer or recruiter in respect of repatriation, while in others the method of effecting it must be specified in the standard contract to be used in recruiting. In other cases, again, the employer or recruiter is required to execute a bond as security for the fulfilment of the obligation. Moreover, it is sometimes provided that in the event of the contract being renewed or of a fresh contract being concluded, the obligation to repatriate the worker, should he desire to return, continues for a certain number of years. These provisions often apply also to the family of the worker.

In *China*, by the terms of the Decree of 3 May 1918 relating to labour contracts for emigrants, the employer is under an obliga-

tion to repatriate the workers on the termination of their engagement at his own cost. He must also bear the cost of the repatriation of a worker who contracts a lingering illness during the period for which he has been engaged.

In *Colombia*, under the Immigration and Colonisation Act No. 114 of 30 December 1922 (section 16), in the labour contracts with Colombians recruited for service outside their country it must be stated explicitly that the employer is bound to repatriate the persons engaged by him on the termination of their contract, the execution of this obligation being guaranteed by the payment of a deposit.

In *Costa Rica*, according to the Act of 28 October 1922, the recruiting agent must furnish a security for the free repatriation of the workers recruited to their original place of residence on the termination of the labour contract.

In *Guatemala*, according to the Regulations of 20 July 1923 (section 4), no employer recruiting workers for employment abroad may obtain a licence unless he has made a deposit with the Minister of Agriculture of 25 gold pesos for every worker engaged. This sum must be expended on the repatriation of the workers at the termination of their contract.

In *Haiti*, under the Act of 28 February 1924 (section 3, subsection 5), a licence is granted to foreign employers or companies for recruiting workers in Haiti only on condition that the free repatriation of the emigrants up to the place of departure, at the end of the period of engagement, is guaranteed.

In *India*, according to the Notifications of February 1923 (sections 5 and 6), regarding emigration to Ceylon and Malaya, and the Rules issued on 10 March 1923 (sections 51-54) under the Emigration Act, a worker who has been recruited by a country to which the emigration of unskilled workers is lawful is required to be repatriated at the cost of the Government which has recruited him, if his return to his home is considered desirable by the competent official, either on the ground of his state of health, or that the work which he is required to do is unsuitable, or that he has been unjustly treated by his employer. On their arrival in India returned emigrants must be properly lodged at the expense of the country to which they emigrated, until the Emigration Commissioner is in a position to arrange for their departure to their homes. Such emigrants must, if they so desire, and if the terms on which they emigrate entitle them to it, be returned to their homes at the expense of the country to which they emigrate. Such emigrants as are considered to be physically or mentally helpless are to be returned under proper escort. Returned emigrants who are sick are entitled to be treated in a hospital free of charge until they can be returned to their homes.

In *Italy*, according to the Circular 3 *(a)* of 27 April 1925 issued by the General Emigration Department to prefects, inspectors and provincial commissioners, a bond must be executed by managers engaging a company of performers, or even a single artiste, for employment abroad as security for the repatriation of the persons engaged. When these persons have to travel to an overseas country, their passports may not be visaed until the deposit of a sum corresponding to the amount of the return passage has been made.

In *Japan*, under the Migrants' Protection Act 1896-1907 (sections III and VII (2)), the emigration agent is responsible for the repatriation of the emigrant or for his maintenance abroad in the event of sickness or indigence for a period of ten years after his departure. Those who are responsible for non-assisted emigrants are required to assume the same obligation.

In *Mexico*, according to Article 123 of the Mexican Constitution of 5 February 1917, it must be explicitly stated in every labour contract concluded between a Mexican worker and a foreign employer that the expense of repatriation will be defrayed by the latter.

In application of this general principle, Decree No. 2308 of 13 August 1923, promulgated in the State of Jalisco, embodying a labour code, requires, in section 10, the execution of a bond by any foreign employer recruiting Mexican workers, or a cash deposit sufficient to cover the cost of transport and maintenance of the worker and his family from the place of employment to his home.

In *Nicaragua*, according to the Decree promulgated on 7 February 1923 (sections 2 and 3), recruiters engaging Nicaraguan workers for employment abroad are required to repatriate them free of charge on the termination of the engagement. As security for the fulfilment of this obligation, the recruiter must nominate a bank or banker of recognised solvency as surety.

In *Poland*, under the Legislative Decree of 11 October 1927, every contract for a worker recruited for employment abroad must specify in detail the employer's obligation regarding repatriation.

With the exception of colonial regulations, immigration laws only occasionally deal with repatriation.

In *Denmark*, by the Act of 1 April 1912, contracts of alien workers are required to state the conditions in which payment is made for the outward as well as the homeward journey.

In *Panama*, under Act No. 55 of 30 March 1925 (section 3), it is compulsory for employers, whether individuals or companies, to repatriate at their own expense a worker whom they have brought into the country; they are required to give a guarantee sufficient to ensure that the repatriation can be effected at any time it may seem necessary. They may also be required to pay the maintenance expenses of such a worker pending his embarkation.

Bilateral agreements frequently contain provisions on the repatriation of workers who have been brought into the country.

In the treaty signed on 24 November 1927 by *Germany* and *Poland*, the chief purpose of which was to maintain the seasonal character of the employment of Polish immigrants, it was stipulated that they should be repatriated between 15 December and 20 February every winter; and by their contracts of employment the employer was required to pay the cost of the return up to the Polish frontier, railway tickets at a reduced rate being made available for the remainder of the journey. Similar provisions were included in the agreements concerning the immigration of seasonal *Czechoslovak* and *Yugoslav* agricultural workers to Germany concluded in the following year. Moreover, in the agreement concerning *Polish*

seasonal immigration to *Latvia*, signed in 1933, it was provided that on the expiration of their contracts the immigrants should receive a fixed sum from their employers to cover the cost of the return journey to their place of origin in Poland.

A number of bilateral agreements, however, leave the various details of the living and working conditions of the migrants to be specified or completed in standard contracts drawn up by the competent authorities of the two countries. The more important provisions concerning repatriation are, accordingly, to be found in these and other contracts of employment. As these provisions are too numerous and varied to be cited here, a brief outline of the usual method is given below.

It is as a rule specified in the contracts, in the first place, whether or not the cost of the outward and the homeward journey is to be met in the same way, and secondly, if a different method of payment is to be adopted in each case, whether the employer is required to pay for the homeward journey or whether the worker has himself to find the necessary funds for it.

Regular deductions are sometimes made from the worker's wages which are returned to him in a lump sum at the time of the expiration of the contract; in other cases a fixed amount or sums varying according to the duration of the contract are given in the form of a bonus.

There are also instances in which the employer first advances a certain sum to the workers for their outward journey, collects it from them by instalments, and then gives it back again when their period of engagement has been completed.

It should, however, be noted that by receiving these payments the worker is not bound to leave the immigration country. The sum due to him in respect of the homeward journey may, it is true, be held over until he actually starts for his own country, or reduced, on condition that this is provided for in the contract, but in most cases there is no such restriction, and in some contracts it is explicitly stated that the bonus must be paid even if the worker remains in the country and continues to be employed in the same undertaking.

The question of repatriation in the event of a contract being terminated before it has run its normal course is usually dealt with in the contract itself. There are, however, exceptions ; in a contract of Czechoslovak workers employed in Austria, for instance, it is stated that the national legislation on the subject is to apply to the immigrants in such cases. Standard contracts sometimes lay down that should the termination be due to the employer's fault, he is to provide the cost of repatriation, or pay to the workers an amount equal to the advance he had originally made for the outward journey and recovered in instalments by deductions from their wages.

If the contract is cancelled, on the contrary, through some fault on the part of the worker, the allowance in respect of repatriation may be withheld and he may be required to return any balance that may still be owing on the amount advanced by the employer for the outward journey.

Provision is also made in some contracts to enable the worker to terminate his engagement, should he desire to do so, for personal reasons such as the serious illness or death of his wife. A standard contract used in the recruitment of Italian agricultural or forestry workers for employment in France specifies, for instance, that in such cases if the expenses of the outward journey have been met by the worker himself, these are to be refunded to him with a deduction varying in proportion to the period of service that remains to be completed.

Further, it is sometimes provided that should the contract come to an end before the specified period, for no fault on either side, due to trade depression, abnormal unemployment, or suspension of work consequent upon *force majeure*, etc., the employer is to pay the expenses of repatriation or the bonus which falls due on the completion of the contract.

The rules concerning the repatriation of workers are usually less detailed than those for the outward journey. This may be due to some extent to the assumption that the worker has made sufficient savings in the interval and gained some experience. The material arrangements for repatriation are, however, generally the same as those for admission ; Polish workers in Germany, for instance, are on both journeys concentrated at certain centres and then taken in groups by special trains by the competent body in Germany.

Aid to Returning Emigrants

No distinction is made as a rule between emigrant workers who have returned home and others, but in some cases special privileges are granted to the former in order to enable them to make a fresh start. The assistance given to demobilised soldiers after the war and the arrangements made for settling large numbers of people as a result of exchanges of population between different countries are examples of such benefits accorded in times of emergency ; but there are also occasional instances of measures of a more permanent character.

In *Chile*, according to the Regulations of 11 March 1896, the Act of 14 September 1896 and the Decree of 24 September 1896, nationals returning from Argentina were entitled to occupy State-owned land provided they could furnish proof of their having emigrated to, and become established in that country ; such nationals were also entitled to full ownership of the holdings granted to them on condition that they cultivated the land themselves for a period of five years and undertook certain kinds of preliminary development work.

In *Paraguay*, according to Act No. 822 of 17 July 1926, unoccupied public lands were allocated to returned emigrants on the same terms as to foreign immigrants, full ownership being obtainable after four years of occupation on condition that certain types of development work were carried out.

In *Poland* arrangements are made by the State authorities for the sale of arable land, on specially favourable terms, to returned emigrants [1].

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[1] Circular of 1925. *Biuletyn Urzedu Emigracyjnego*, No, 6, July 1925.

CHAPTER V

BILATERAL AGREEMENTS

One of the most characteristic features of migration movements in the years following the war was the large number of bilateral treaties concluded between the countries of emigration and of immigration. Although during the recent economic depression there has been a slackening in this direction, as can be readily understood, it cannot however be considered to have ceased and it seems probable that when migration is resumed the number of these agreements will once again increase.

This collaboration between countries interested in migration matters is mainly due to the new conception of the part the State should play. It no longer confines itself to forbidding or allowing the incoming or outgoing of migrant workers; it endeavours to relate these movements not only to economic, social and political needs, but also to the interests of the migrants themselves. Such a policy of regulation and protection necessitates agreement between the countries of emigration and of immigration, more particularly when it is a question of collective and organised movements preceded by the active recruiting of migrants in one country for work in another. These movements are especially evident in continental migration which, as explained in the introduction to this report, has developed very considerably during post-war years. The concentration of migration movements within the interior of each continent has thus helped to expand the rôle played by bilateral agreements in regulating migration.

Many references have been made in preceding chapters to bilateral agreements in relation to particular problems and only a general description of these agreements will be made in the present chapter [1]. There will, however, be a certain

[1] For a detailed analysis of these agreements on migration reference may also be made to previous studies of the International Labour Office, particularly Vol. III of *Migration Laws and Treaties*, *The Migration of Workers*, etc.

amount of duplication, but it is thought that this is compensated by greater clarity and precision.

Bilateral agreements have been found very useful, whether regarded as a means of promoting the welfare of the emigrant himself and increasing his social and economic utility or as instruments for the mutual benefit of the emigration and immigration countries ; the larger the ground they cover the greater is their utility. These treaties are numerous and varied. Some of them, called labour treaties, lay down general regulations governing the emigration of workers and determine the conditions under which those coming from one contracting party's territory shall reside in that of the other. Others are recruitment treaties for setting up the organisations through which labour is to be recruited and determine their method of working. Others again are confined to the placing of workers and the conditions of their employment.

It rarely happens, however, that such treaties are strictly limited to one subject. In most cases, they deal with several subjects, sometimes with a very large number. Matters relating to collective recruitment, for instance, may be accompanied by provisions concerning voluntary emigration, as in the case of the Franco-Polish Convention of 1919 or of the Franco-Czechoslovak Agreement of 1920.

Treaties like the Franco-Italian Labour Treaty of 1919, or even those like the Franco-Belgian Labour Treaty of 1924 and the Belgo-Luxemburg Treaty of 1926 which, though briefer, embrace a wider range of principles, deal with emigration as well as labour at one and the same time ; certain types of residence treaties, parts of which are applicable not only to the dependants of workers but to all nationals of the contracting States, may likewise be regarded as examples of agreements covering a wide range of subjects.

Moreover, States do not as a rule regulate once for all the whole of the labour questions in which they are interested by a single treaty. They proceed by means of successive treaties supplementing each other, with the result that a complicated code of international regulations is gradually formed.

A great many treaties in which basic principles are formulated also provide for additions dealing with practical administrative requirements to be made by agreement with the competent authorities concerned ; sometimes provision

is made for conferences to be held from time to time with that object in view. Understandings reached in this fashion are not always embodied in formal documents intended for publication.

Again, treaties, relating to labour, recruitment and the placing of workers may apply to workers of all categories, or may concern only workers following a particular occupation, e.g. agricultural workers, seamen, etc. Certain classes of workers are sometimes expressly excluded from the application of these treaties.

The scope of these treaties varies too much to serve as a basis for classification in this Report. A more convenient method of grouping them would seem to be on a geographical basis; accordingly a brief summary will be given in this chapter of typical bilateral treaties of recent years regulating international movement of workers between two countries forming part of the same continent as well as treaties concluded with the object of regulating the emigration of workers from one continent to another, with the exception of agreements relating to colonies or territories with analogous labour conditions and agreements relating to the social insurance of migrants and to the exchange of student employees.

§ 1. — Bilateral Treaties concerning Migration from One European Country to Another

AUSTRIA

Agreements with Czechoslovakia and Hungary are designed to regulate the recruitment in those countries of agricultural and forestry workers, of whom there is a shortage in Austria, while those with France and Poland aim at organising the workers' emigration to and immigration from the two countries. A commercial treaty with Germany deals with undertakings engaged in the transport of migrants.

Austria-Czechoslovakia. — In accordance with the Treaty of Commerce of 4 May 1921, which provides for the collective recruitment of agricultural workers, successive agreements have been concluded, usually for a period of one year, to regulate the recruitment of Czechoslovak agricultural workers. On 24 June 1925 a new permanent administrative agreement was entered into by the competent departments of both countries which, besides laying down general principles for recruitment, states that Czechoslovak workers are under no circumstances to be permitted to remain in Austria after 15 December of each year.

According to this agreement, recruiting and placing operations may be undertaken only by specified organisations, the engagement of workers through other channels being forbidden. Annual confer-

enees are to be held of representatives of the Austrian and Czechoslovak Ministries eoneerned, the reeruiting ageneies of both eountries and the Czechoslovak Consulate-General in Vienna, together with representatives of Austrian Employers' and Czechoslovak Workers' Organisations, for the purpose of drawing up standard eontraets.

Reeruitment is to be effeeted by Czechoslovak labour exehanges in groups of three persons as a rule, under the supervision of foremen, generally seleeted in agreement with Austrian employers, the foremen's duties ineluding making arrangements for the medieal examination of the workers. A eopy of the labour eontraet signed by the workmen and retained by the foreman is to serve as a passport, and a further medieal examination is required on the arrival of the workers at the plaee of employment. In addition to advanees on aeeount of expenses eonneeted with reeruitment, in the event of the engagement of workers in Slovakia or in the Ruthenian Territory, the employer must pay an aeident insurance premium in respeet of them ; this sum is transferred to the Bratislava Aeident Insuranee Fund with whieh the workers remain insured.

The treaty strietly forbids workers and employers to amend the standard eontraet in accordance with a private understanding without the consent of the Ministries eoncerned. A worker who violates these provisions, or leaves his employment without good reason, or enters into the employment of another master without the authorisation of the official Austrian organisation renders himself liable to be dismissed and returned to his country through the Czechoslovak Consulate in Vienna.

The eompetent Austrian Ministry may inspect the arrangements made for reeruitment in order to satisfy itself that the agreement is being observed. Any disputes that may arise are to be dealt with by the Austrian Publie Offices for Agricultural and Forestry Workers and by the Czechoslovak Consulate.

The ereation of an arbitration tribunal, presided over in turn by a delegate of the Austrian Ministry of Agrieulture and a delegate of the Czechoslovak Consulate-General, and eomposed of a representative of the Austrian employers and a representative of the Czechoslovak workers is also provided for.

Among the subjeets eovered by the agreements eoneluded at the annual eonferenees are the following : the period of engagement, hours of work and rest periods, deposits required of the employer, the workers' living eonditions, penalties for breaeh of eontraet and the right of the emigrants to aeeident and siekness insurance benefits in Austria, exeept in the ease of those reeruited in Slovakia and Sub-Carpathian Russia who remain insured with the Bratislava Insuranee Fund. Other subjeets inelude the travelling expenses of the reeruits (whieh the employer is required to pay, the Czechoslovak railways granting a reduetion of 50 per eent. on ordinary fares to sueh emigrants), the remuneration of foremen who serve as recruiting agents and methods of supervision of the exeeution of labour eontraets.

At the eonferenee of 1936, the annual quota of Czechoslovak seasonal workers for agricultural work in Austria was fixed and the method of payment of wages in Czechoslovak erowns to be effeeted by the public employment exehanges was also fixed.

Austria-France. — A Labour Treaty was signed on 27 May 1930. This treaty, whieh eame into force on 25 August 1934, is based

largely on the principle of equality of treatment between the nationals and emigrants. It is very wide in scope and aims at organising migration between the two countries by regulating the procedure relating to the departure of emigrants, their admission to the country of employment as well as repatriation. It makes a contract of employment, in accordance with a specified standard, compulsory, lays down the obligations of the emigrant and of his employer and establishes a series of rules for ensuring the application of measures relating to welfare. An important feature of the treaty is a provision enabling immigrants to receive assistance in case of unemployment and to participate in social insurance schemes.

Austria-Germany. — (Cf. Germany.)

Austria-Hungary. — A protocol appended to the Additional Agreement to the Treaty of Commerce of 8 February 1922, signed on 9 April 1926, regulates the emigration of surplus agricultural workers from Hungary for employment on Austrian territory. A record of suitable offers of employment communicated by Austrian Government officials or official agencies is to be kept and utilised by the Hungarian employment exchanges, the details relating to engagement and assignment being left to be settled by administrative agreements concluded by the competent authorities of the two countries.

Austria-Poland. — The Commercial Convention dated 15 September 1922 contains clauses designed to regulate provisionally seasonal agricultural emigration from one country to the other.

BELGIUM

Treaties based on the principle of reciprocity and of equality of treatment have been concluded by Belgium with France, Luxemburg and the Netherlands. There are, in addition, other agreements with France and the Netherlands on seasonal emigration and frontier workers, and with Italy on the recruitment of Italian workers for Belgian industry.

Belgium-France. — According to the general Labour Treaty concluded on 24 December 1924, workers of one country and their families are free to enter the other in order to take up employment, subject to the fulfilment of the prescribed administrative formalities, but individual and voluntary immigration may be prohibited after notification when there is no scope for it.

Immigrant workers are to receive, for work of equal value, remuneration equal to that received by nationals of the country in the same occupation, employed in the same undertaking, or in default of nationals in the same occupation employed in the same undertaking, not less than the customary wages of workers in the same occupation in the district. The Government of the country of immigration undertakes to ensure equality of the wages of immigrant workers with those of its own nationals within its territory.

The same protection is to be granted to immigrants as to nationals in respect of conditions of employment and standard of living, the competent authority for dealing with complaints being the department concerned in the country of immigration.

Immigrants are to be accorded the same rights and advantages as the nationals in all matters relating to the acquisition, ownership and conveyance of small rural and urban holdings, with the excep-

tion of bonuses granted free of charge by either of the two Governments to builders and purchasers of cheap houses and other concessions or privileges based on rights of citizenship.

Workers and employers of both countries who are concerned in collective labour disputes may be members of conciliation and arbitration committees appointed to deal with such disputes. Subsidies to mutual unemployment funds and assistance from public unemployment funds and public institutions for relief work are to be granted in each of the contracting States to nationals of the other State. Equality of treatment between the nationals and immigrants in both countries as regards the application of the laws regulating conditions of employment and the health and safety of the workers is provided for, and further extension of this principle is envisaged.

Neither of the two contracting States is to impose special duties or taxes on nationals of the other State on account of their employment on its territory, but this provision is without prejudice to the requirement of the laws and regulations concerning general taxation affecting aliens, especially those connected with the issue of permits of residence.

Provision is further made for administrative arrangements securing the co-operation of the competent Government services in the execution of the Treaty and for direct communication between the services.

Any difficulties arising between the two Governments with regard to the application of the Treaty are to be dealt with by an arbitration tribunal

By the agreement of 4 July 1928 seasonal workers and others employed in France but domiciled in Belgium were enabled to obtain their identity card from the municipality of the place where they reside, while the agreement of 31 March 1931 provides similar facilities for French frontier workers in employment in Belgium. The zone in which this frontier system is to apply was determined by an agreement concluded on 8 March 1934 between the two countries. Accordingly, the right to a frontier worker's card is to be restricted to Belgian and French nationals whose place of residence in one country and place of employment in the other are both within the zone defined. A further agreement signed on 9 May 1935 defines frontier workers, stipulates that they must obtain a special card valid as a rule for two years and subject to withdrawal in case of offence and provides for the delimitation of the frontier zones in the two countries. It came into force in October 1935, but negotiations continued subsequently on the delimitation of the zones, the wage rates for Belgian workers in French industrial undertakings, and the application to these workers of the quotas for foreign labour fixed on the basis of the French Labour Protection Act of 10 August 1932.

Furthermore, in accordance with a communication addressed by the French Government to the authorities of various European emigration countries, a protocol was signed on 16 June 1935 to the effect that applications for renewal of employment permits from Belgian workers who could prove unbroken residence in France of not less than five years would be examined in a liberal spirit, and that while compulsory military service in Belgium would not count as part of the residence, neither would it be regarded as an interruption.

Belgium-Italy. — In virtue of the Administrative Agreement between the Belgian Ministry of Industry and Labour and the Italian Consulate at Brussels, which came into force on 1 October 1923, Italian labourers may be recruited for Belgian industries subject to the following regulations: Belgian manufacturers who wish to have recourse to the recruitment of Italian workers must fill up a special form in which they specify the conditions of employment offered. The forms are collected by the official and approved labour exchanges in the respective districts so that these exchanges may make sure that the terms offered correspond to the conditions which are usual in the region where the worker is to be employed, that adequate provision is made for housing the workers who are to be recruited, and that the applicant can offer guarantees for the fulfilment of his legal obligations. The competent labour exchange then forwards the application to the Ministry of Industry and Labour, commenting on it favourably or otherwise. The Ministry sends on satisfactory applications to a representative of the Italian Emigration Department;[1] the latter takes no applications into consideration which have not reached it through the above-mentioned channel.

Belgium-Luxemburg. — The Labour Treaty concluded on 20 October 1926 reproduces, word for word, the text of the Franco-Belgian Treaty mentioned above, except with regard to unemployment relief, which is organised differently in Luxemburg, the relevant provision being "allowances granted in case of unemployment by either of the two States shall be granted in each contracting State to nationals of the other State".

The provisions relating to taxation are omitted.

Belgium-Netherlands. — The Belgian-Netherlands Agreement of 20 February 1933 is based on the principle of equality of treatment between nationals and immigrants in either country in regard to the exercise of all trades and occupations, with the exception of certain liberal professions and certain itinerant trades, and subject to any measures for the protection of the labour market. Equality of treatment applies also to legal protection and the right to acquire or dispose of real or movable property. Immigrant workers are granted the same rights as national workers in regard to the application of laws regulating living and working conditions, and also in regard to unemployment benefit and allowances.

Another treaty, which came into force on 6 February 1936, defines frontier workers, and stipulates that each such worker must hold an identity card issued by the authority of the commune in which he resides and a certificate of employment drawn up by his employer and countersigned by the public employment exchange in the district in which he works. The frontier regions to which the scheme applies are defined. In other respects the employment of frontier workers continues to be governed by the legislation regulating the admission of foreign workers into each of the two countries.

CZECHOSLOVAKIA

Agreements concluded by Czechoslovakia with Austria and Germany regulate the collective recruitment of Czechoslovak agricultural workers for seasonal employment in these two countries (cf. Austria and Germany). A treaty with France, based on the

[1] This is now replaced by the Directorate-General for Italians Abroad.

principle of complete reciprocity, deals with individual immigration and with collective recruitment for unlimited periods; subsequent agreements have in addition defined conditions of seasonal agricultural emigration into France (cf. France).

FRANCE

France has concluded a large number and variety of treaties with the object of supplying her industries and agriculture with the foreign labour required; these include general labour treaties containing numerous residence clauses, e.g. those concluded with Austria, Belgium and Italy; treaties regulating at one and the same time collective recruitment and voluntary immigration of individual workers, e.g. the agreements with Poland and Czechoslovakia; and a number of miscellaneous agreements dealing with the recruitment of labour for seasonal or permanent occupations. Frequently a principal treaty is supplemented by subsidiary agreements.

France-Austria. — (Cf. Austria.)

France-Belgium. — (Cf. Belgium.)

France-Czechoslovakia. — The agreement signed on 20 March 1920, by France and Czechoslovakia, and known as the "Convention in respect of Reciprocal Emigration and Immigration" follows very closely the Franco-Polish Convention of 1919. Both the Conventions deal with individual emigration and with collective recruitment and regulate ordinary emigration as well as special workers' emigration.

The most-favoured-nation clause in the Franco-Polish Convention is, however, omitted in the Franco-Czechoslovak Convention which, moreover, stipulates that the competent administrative authorities of the employing country are to have the sole right of intervening in any disputes between the emigrant workers and their employers regarding living and working conditions, it being required that complaints in this respect should be addressed to such authorities. Further, it is laid down that the only regular channels for organised recruiting are the Central Labour Office (Ministry of Social Welfare) in Czechoslovakia and the National Employment Office in France.

Provision is also made for the holding of annual conferences and the conclusion of special arrangements between Government departments for the application of the Treaty. Accordingly, conferences were held on various occasions for drawing up detailed regulations for collective recruitment, e.g. the number of workers to be recruited and the districts from which they were to be drawn, and the clauses to be inserted in standard labour contracts for different categories of workers.

Agreements relating to the recruitment of seasonal workers, both for agriculture in general and for the sugar-beet industry in particular, have also been signed. Special standard contracts for the use of these classes of workers have been drawn up.

By the terms of the agreement of 1923, agricultural workers of either sex are to be recruited in Czechoslovakia through the Agricultural Labour Exchanges, under the joint supervision of the Czechoslovak authorities and of an agent approved by the French Minister of Agriculture. They must be engaged in accordance with a standard contract laid down by this agreement.

Two agreements, one concluded in 1926 and the other in the following year, deal respectively with the methods of recruitment and with the fixing of the quota of workers to be engaged each year.

France-Great Britain. — In 1923 an agreement was concluded between France and Great Britain with the object of recruiting British workers for employment in French undertakings. It stipulates that applications sent in by employers, after having been endorsed by the French Ministry of Labour, are to be forwarded to the Ministry of Labour in London, which undertakes to bring them to the knowledge of British unemployed workers possessing the requisite qualifications, through the medium of the official employment exchanges A standard labour contract was appended [1] to the agreement.

France-Hungary. — By an agreement signed on 28 February 1930, the French and Hungarian Ministries of Labour laid down rules for the recruitment of Hungarian industrial workers for employment in France and drew up standard contracts of employment. Later in the year, by an exchange of notes between the two Governments, the recruitment of Hungarian agricultural and forestry workers, *under special conditions, was also covered.*

France-Italy. — In concluding the Labour Treaty dated 30 September 1919, the French and Italian Governments desired not only to regulate the emigration of workers but in general " to offer all facilities in their respective countries for the settlement of emigrant nationals of the other State ", by applying as fully as possible the principle of equality of treatment. This principle underlies the various provisions of the treaty relating to workers and their families from one country entering or leaving the other, and to the immigrant workers' living conditions, as well as a number of other provisions concerned with welfare, relief and protection not only of workers but of nationals of the contracting States in general. The treaty further provides that the same principle is to be observed in connection with the development of the social legislation of the contracting States.

No special authorisation is required for foreign workers to leave their country of origin in order to go to the other country, either individually and voluntarily or collectively, nor for their families. These workers and their families are to be allowed to travel freely in the country to which they go, provision being made, however, for consultation between the Governments for restricting the immigration of individuals coming on their own account in search of work should the employment situation require it.

This treaty is unique among the Conventions concluded by France in that it does not provide for recruiting activities in the country of emigration by organisations of the country of immigration.

The provision relating to wages, which is based on the principle of equal remuneration for national and foreign workers, and that on the protection of immigrant workers, are identical with those of the Franco-Belgian Convention. But, in addition, by the Franco-Italian Treaty each Government is authorised to attach to its Embassy in the other country, an expert to deal with matters concerning labour and relations with the competent central department of the other country.

A Commission was set up to meet in Paris at least twice a year for the purpose of devising measures for ensuring that workers are not recruited in such numbers as to prejudice the economic development of one country or injure the interests of the workers of the

[1] *Communication received from the British Government, 1923.*

other, and eaeh State may in addition consult in this matter the employers' and workers' organisations on its own territory.

Soeial insurance, unemployment relief, medieal eare and other forms of assistance as well as compensation for industrial accidents are also dealt with, these elauses being designed to seeure for the immigrants in either country equality of treatment with the nationals.

The eonditions of residenee the fulfilment of which makes it ineumbent on the immigration eountry to bear the eost of assistanee are laid down as well as the eases in which the repayment of sueh eost by the emigration country is required.

With regard to the possession and transfer of small urban and rural holdings, the same advantages are assured to the nationals of each country as are accorded by the Franco-Belgian Convention.

Duly constituted eharitable societies and societies for assistance or mutual aid of immigrants and mixed soeieties are to enjoy the same privileges in either country as those accorded to national societies of the same kind.

An agreement concluded in 1924 in aecordanee with the treaty sets out the details of the proeedure and eonditions of repatriation and the method of calculating the duration of continuous residence.

The prineiple of equality of treatment for immigrants with the nationals is to be applied as regards labour legislation, arbitration and conciliation, taxation, admission to publie elementary schools as well as the establishment of private schools, provision being made for regulating the position of seamen, fishermen and, in general, wage-earning persons employed in fishing and in the mercantile marine in aeeordanee with the same prineiple. A similar provision is also made for extending the Convention to eolonies, possessions and proteetorates.

France-Luxemburg. — An agreement was coneluded by Franee with Luxemburg in 1931, based on the principle of most-favoured-nation treatment.

France-Poland. — An agreement was concluded between France and Poland on 3 September 1919 entitled the " Convention in respect of Emigration and Immigration ", this being the earliest of the general labour treaties. As regards emigration proper the purpose of the treaty is " to give full administrative facilities for nationals of either country to travel to the other country in order to take up employment there, and for their return to their native country " as well as " to authorise the eollective recruiting of workers in either country on behalf of undertakings situated in the other ", subject to certain conditions.

The Convention provides that the prineiple of equality of treatment between nationals and immigrants is to be applied in both countries to such matters as wages, labour legislation and the payment of benefits and pensions and contains, further, the principle of the most-favoured-nation clause in virtue of which the greater advantages subsequently granted by the Franeo-Italian Treaty of 30 September 1919 to Italian workers employed in France, and by the Treaty of 24 December 1924 to Belgian workers, became applieable to Polish workers as well.

Provision is made for supervision by the competent administrative department in each eountry of the protection of immigrant workers, all eomplaints regarding their living or working conditions (whieh

may be written in their native language) being required to be addressed to this department.

Intending emigrants and their families are to be free to go from one country to the other, subject to their procuring identity cards issued by their national authorities, but measures decided upon by both Governments in common may be taken to restrict individual immigration when the employment situation requires it.

Collective recruiting is dealt with in great detail. The emigration country is to have the right to determine the areas within its territory where recruiting may be carried on. The number and class of workers to be recruited are to be fixed by agreement, and a joint Commission has been set up for the purpose to meet annually and consider the views of a national tripartite committee on the subject.

Recruiting is carried on by Government agencies, and the workers thus recruited must be approved, before starting, either by an official mission from the country in which they are to be employed, or by a representative of the employer or of a trade organisation approved by both Governments.

Contracts of employment proposed by the employers, and their applications for workers, are required to be in conformity with the principles of the Convention and with standard contracts drawn up by agreement between the two countries.

Provision is also made for administrative arrangements regarding the regulation of recruiting, relief, insurance and welfare, and among the matters dealt with either in the treaty itself or in subsequent agreements arising therefrom, such for instance as the Treaty on Relief and Social Welfare of 14 October 1920, are the immigrant workers' health, transport, savings (arrangements for transfer from the country of employment to the country of origin), rights of association and representation, welfare, living conditions and right of acquiring, owning or conveying small rural or urban holdings. In all these matters as well as in regard to the position of duly constituted charitable organisations, associations for relief and co-operative societies of immigrants, as in the case of the Franco-Italian Labour Treaty, it is stipulated that the principle of equality of treatment between the nationals and immigrants is to be observed.

In an agreement signed in 1924, it was further provided that representations regarding difficulties experienced by Polish immigrants should be promptly dealt with, that Polish officials should be entitled to assist in the recruiting operations carried out by French missions in Poland, that the establishment on French territory of private charitable organisations for the relief of immigrants should be authorised and that the provision for compulsory attendance at schools of the children of Polish workers should be enforced.

A protocol was signed on 20 February 1925 on the procedure for recruitment requiring that each worker's contract should mention the employer's address and the worker's name, occupation and grade as well as the period of his contract and the amount of his wage. In the case of miners and agricultural workers, where the exact occupation of an individual worker could not be stated, the conditions of work should be indicated. Various other matters were also dealt with including the provision of transport facilities for the immigrants and the fixing of the numbers and grades of workers to be recruited. An Advisory Committee to meet at least once a year was appointed to deal with questions of recruitment, and it was agreed that the transport service in charge of the arrangements or a Polish official

agent appointed for the purpose should be responsible for providing the emigrants with the necessary facilities during their journey.

The fixing of minimum wages and agricultural immigration were considered at the Conference of 1928. With regard to the former, it was agreed that in the applications for groups of Polish workers — — for employment other than in coal and iron mines — the normal minimum wage rates should be indicated. As to agricultural emigration, besides laying down the conditions for the placing of Polish women in agricultural employment in France, it was decided to enlarge the French inspection service in order to increase the Polish-speaking personnel and encourage the institution of special relief committees with a view to providing for the welfare of Polish agricultural workers in general and women in particular. The Conference also decided that French employers declining to refund 60 per cent. of the travelling expenses of Polish families (wives and children under age) joining Polish industrial workers already settled in France would no longer be permitted to engage any further Polish workers.

Regulations relating to the applications for particular industrial workers from Poland and to the protection of the interests of, and the guarantee of a weekly rest day for, Polish immigrants working in French agriculture were drawn up by the Franco-Polish Advisory Committee at the end of 1929.

France-Rumania. — France concluded a treaty with Rumania on 28 January 1930 the terms of which are practically identical with those of the treaty with Austria of 27 May 1930 (cf. Austria).

France-Spain. — On 2 November 1932, a Labour Treaty was signed between France and Spain based on the principle of equality of treatment and reproducing in a simplified form the main clauses of similar treaties concluded by France since the War. Applications for labour which do not specify particular workers by name are subject to the visa of the competent Ministries of the country of immigration and forwarded to the authorities of the other country. Workers are recruited under the supervision of the authorities of their own country and by its official bodies, but the final selection is made before the departure of the workers by an official mission from the immigration country or by representatives of the employer or an employers' organisation of that country, to be approved by the authorities of both States. Before his departure and again on reaching the frontier every immigrant must produce a contract of employment with the visa of the competent Ministries of the country of destination, and a health certificate. The equality of treatment agreed upon between the two States applies to social legislation in general, including unemployment relief, social insurance and public assistance.

France-Yugoslavia. — A Labour Treaty was concluded also between France and Yugoslavia on 29 July 1932 embodying the principle of equality of treatment in respect of labour legislation and unemployment insurance.

GERMANY

Agreements concluded by Germany aim as a rule at providing German agriculture with seasonal labourers from the neighbouring countries of Central Europe.

Germany-Austria. — The agreement concluded on 13 December 1928 between Germany and Austria authorised the engagement,

placing and employment of Austrian workers in seasonal agricultural work in Germany.

Under the terms of this agreement the authorities competent to deal with such matters are the German Central Office for Workers and the district industrial committees or the Migration Office of the Federal Chancellory in Austria. The workers are to be engaged in accordance with a model contract issued for seasonal workers by the Technical Committee for Agriculture and Forestry of the German Institute for Employment Exchanges and Unemployment Insurance. The selection of workers is made by the Austrian employment offices which must agree with the German Central Office as regards the date of the commencement of employment. A copy of the contract of engagement is sent to the German Central Office, the appropriate German employment office, the employer and the worker, or one of the workers designated by the Austrian employment office when the contract is a collective one.

The commercial treaty concluded on 12 April 1930 between Germany and Austria, which was made public in the following year, established equality of treatment as well as most-favoured-nation treatment for undertakings in either country that carry out on the territory of the other the transport of migrant workers from one of the two countries to the other, or in transit to a third.

Germany-Czechoslovakia. — The " Agreement concerning Czechoslovak Agricultural Workers " was signed on 11 May 1928 after several provisional agreements had been concluded; its purpose, like that of the arrangements which preceded it, is to furnish German agriculture with the required labour. In this, as in the Germano-Polish Agreement, [1] it is explicitly stipulated that the emigration is to be seasonal. There are, however, differences between the two, for this agreement, unlike the other, excludes the recruitment of individual workers and contains no provisions regarding social insurance.

The German Central Office for Workers (Deutsche Arbeiterzentrale) [2] and the Czechoslovak official employment exchanges (Staatliche Arbeitsämter) are to be responsible for the recruitment and placing of workers, who are to be engaged in accordance with a standard labour contract drawn up by the Technical Committee for Agriculture and Forestry of the German Institute for Employment Exchanges and Unemployment Insurance. Any modification of this standard contract to the disadvantage of the worker is to be reported to the Government of Czechoslovakia. The Czechoslovak official employment exchanges, in consultation with the German Central Office, are to engage the workers in groups of at least two persons, to obtain first the signatures of the foremen and then of the workers on their respective contracts, after having explained to them the terms thereof, and to be responsible for the arrangements for the departure of the workers. Groups of more than fourteen persons are to be placed in charge of a foreman, workers and foremen breaking their contracts not being eligible to be re-engaged. The German Central Office is to receive the workers at the frontier and be responsible for their medical examination and vaccination, the employer meeting the expenses thereof. Workers may not change their employment as a rule, exceptions being permitted

[1] See below, p. 132.

[2] Now the German Institute for Placing and Unemployment Insurance.

only on condition that the change does not involve any deterioration in the conditions of work and that the Czechoslovak employment exchange concerned is informed of the reasons for it. The German Central Office is required to pay a specified sum for each worker engaged to the Czechoslovak employment exchange concerned and accounts of these taxes are to be rendered every quarter.

The collective agreement is to take the place of a passport when a group crosses the frontier and during its stay in Germany, the visa usually required being dispensed with. If a worker leaves his group while in Germany through no fault of his own, he is to be provided with a passport free of charge by the Czechoslovak Consul at Berlin. Immigrant workers are accorded by this agreement, as by the Germano-Polish Treaty, the same treatment as nationals in all matters relating to their protection, freedom of association, public assistance and conciliation and arbitration proceedings, subject, however, to the German laws governing aliens. The German Government has further undertaken to arrange that suitable and sanitary housing is provided for Czechoslovak immigrant workers.

Czechoslovak seasonal workers are, like Polish workers in Germany, to be exempt from taxes on wages, provided that proof of their remaining domiciled in Czechoslovakia is furnished.

The agreement does not apply to hop-workers.

Germany-Lithuania. — A Treaty of Commerce was concluded on 1 June 1923 between Germany and Lithuania, pending the conclusion of a special agreement, provisionally regulating the recruitment of Lithuanian workers for seasonal agricultural employment in Germany and the conditions of their employment. The recruitment is to be carried on exclusively through the German Central Office for Workers (Deutsche Arbeiterzentrale) or its agents, in agreement with the Lithuanian State Labour Inspectorate.

The Lithuanian Government undertakes to issue the necessary passports to Lithuanian workers holding contracts of employment, such passports being valid for both the outward and inward journeys. The contract must in all cases state the duration of the employment with the cessation of which the migrant worker's right, under the arrangement, to reside in Germany also expires.

The conditions of work and wages of Lithuanian immigrant workers in Germany are to be the same as those of nationals and they are, moreover, to receive social insurance benefits as much as other aliens.

Germany-Poland. — Following several provisional agreements, a treaty was signed by the two countries on 24 November 1927 with the object of re-establishing the seasonal character of Polish emigration to Germany. Polish workers who entered and settled in Germany before 1 January 1919 are, however, to be allowed to remain there as agricultural workers with certificates setting out the conditions of residence, while all those who arrived between 1 January 1919 and 31 December 1925, with the exception of settled immigrants, are to be progressively repatriated.

As regards the normal seasonal emigration movement, the treaty lays down that the Polish public employment exchanges and the German offices assigned for the purpose by the authorities concerned are to be the sole recruiting and placing agents, the conditions of work being determined in accordance with a standard contract drawn up by agreement between the parties.

The immigrant workers are to have equality of treatment with the nationals in all matters relating to protective legislation, freedom of association, public assistance, conditions of work and conciliation and arbitration, subject, however, to laws governing aliens, and they are also to be provided with suitable housing.

Polish workers are, further, to have the same rights as German workers in respect of insurance against accidents and sickness, but regulations relating to invalidity and survivors' insurance are to be based on the duration of the immigrant's stay in Germany and on the nature of the systems in force in the two countries. It is, however, provided that, in general, residence in Poland is not to be regarded as residence in a foreign country. The Polish authorities and insurance societies are to co-operate with the German authorities and insurance societies in administering German sickness, accident and invalidity insurance schemes. The results of investigations in connection with accidents to Polish agricultural labourers must be reported to the Polish Consul in the district, who is to have an equal right with the worker concerned to take proceedings for the purpose of obtaining compensation.

Polish seasonal agricultural workers are not to be brought under the German unemployment insurance scheme, but they are to be exempted from payment of income tax in Germany on condition that they remain permanently domiciled in Poland.

The application of this agreement was suspended in 1932 but came in operation again in 1937.

Germany-Yugoslavia. — An agreement was concluded on 22 February 1928 by the Central Employment Committee at Belgrade and the German Central Office for Workers (Deutsche Arbeiterzentrale) on the subject of the recruitment of Yugoslav seasonal workers for German agriculture.

The recruiting and placing operations, for which these two bodies are to be responsible, are to be effected in groups of at least two persons, the employment of women under twenty-five years of age in isolation being prohibited.

The number of recruits for the season is to be previously fixed and the conditions of employment are required to conform to a standard contract drawn up by the Technical Committee for Agriculture and Forestry of the German Institute for Employment Exchanges and Unemployment Insurance.

The Yugoslav employment exchanges are to make the arrangements for the outward journey of the recruits, who are required to provide themselves with passports but need not obtain the German visa, the collective agreement being sufficient for admission across the frontier. The medical examination takes place at the frontier and is paid for by the employer. Persons found to be ill or unfit for work are to be repatriated, and should a worker for any reason leave Germany singly, the German Central Office is to procure for him the Czechoslovak, Austrian, and if necessary, Hungarian transit visas.

During their stay in Germany, the Yugoslav workers are to be accorded equality of treatment with nationals, subject to laws governing aliens, as regards labour legislation including conciliation and arbitration as well as recourse to labour courts, and they are also to be exempted from taxation. The German Central Office is to exert its influence in order to enable the Yugoslav agricultural workers to partake of all the benefits of the German social legislation

and no recruit is to be placed in an undertaking involved in a labour dispute or a strike or a lock-out.

Provision is also made for co-operation between the authorities of the two countries with regard to the recruitment and repatriation (facilities being granted to official agents of one country to proceed to the other), protection of the women and minors and transmission of money and savings of the migrant workers. The competent bodies of the two countries may also jointly authorise workers in the service of an employer, who is guilty of serious failure to carry out the obligations laid down by the labour contract, to leave him.

HUNGARY

Hungary-Austria. — (Cf. Austria.)

Hungary-France. — (Cf. France.)

ITALY

A Labour Treaty and a whole series of agreements for its application have been concluded with France in order to regulate questions relating to the emigration and residence of workers of one country on the territory of the other (cf. France).

Italy-Belgium. — (Cf. Belgium.)

Italy-France. — (Cf. France.)

Italy-Luxemburg. — The Labour Treaty signed on 11 November 1920 has not yet been ratified [1]. It is similar to the Franco-Italian Treaty of 1919 in several respects, especially in the application of the principle of equality of treatment to the nationals of both countries with regard to social welfare, relief and labour laws, although more restricted in scope and dealing with fewer subjects.

In both the treaties, facilities are accorded to nationals of either country for entering or leaving the territory of the other, and provision is made for the application to immigrants of the labour laws as well as for the appointment of special officers to protect their interests in the country of employment, the department concerned in that country being the competent authority to deal with complaints regarding working and living conditions.

The Italy-Luxemburg Treaty provides that not only miners from one country employed in the other, but other workers as well, may be members of conciliation and arbitration committees. Moreover, the principle of equality of treatment is applied to the emigrants from either country employed in the other as regards the rights and privileges of trade unions and of friendly societies, unemployment, relief works, co-operation, the acquisition, ownership and conveyance of small rural and urban holdings and admission to public schools as well as schools for vocational training. The same principle is also applied to social insurance generally, provision being made for agreements between the administrative departments concerned regarding the arrangements in this respect in the two countries. Besides, the treaty contains the most-favoured-nation clause in respect of residence, relief, social insurance, conditions of employment and trade union rights.

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[1] The Luxemburg Council of State on 25 November 1921 reported unfavourably on the Treaty ; consequently the Bill that had been prepared to register approval of the Treaty was not submitted to Parliament.

It is, further, stipulated that schools or special courses for the teaching of the native language of the immigrant workers may be established on either of the two territories and conditions are laid down for the transfer of workers' savings from their country of employment to the country of origin.

As regards medical assistance, while the Franco-Italian Treaty lays down that the maximum period during which the State of residence is to bear the cost of relief is 45 days, there is no such restriction in the Italy-Luxemburg Treaty.

Italy-Yugoslavia. — According to the "Agreement concerning Workers", which forms part of the agreements signed by the two Kingdoms at Nettuno on 20 July 1925, emigrants from the territory of either State may be engaged as manual workers or salaried employees by private individuals or establishments, undertakings, factories and industries, established or having branches on the territory of the other, subject to the laws in force on that territory.

It is further provided that emigrants from either country are to be exempted from the limitations and restrictions on foreigners in the territory of the other in respect of private employment as manual workers or salaried employees of any kind, such exemption being extended to persons already so employed during the period of five years, from 1 January 1920 to 1 January 1925. But, after the agreement has come into force, the exemption is not to apply to persons finally returning to their country of origin nor to those engaged in public utility services.

Other provisions deal with the facilities to be provided by each of the two countries to nationals of the other to cross its territory while proceeding to a third country to take up employment as manual workers or salaried employees. The agreement does not affect persons resident in either country for the purpose of naturalisation.

LITHUANIA

A treaty has been concluded with Germany (cf. Germany) regulating the immigration of Lithuanian workers in this country.

LUXEMBURG

Agreements relating to workers' emigration and conditions of their employment in the immigration country have been concluded with Belgium (cf. Belgium) and Italy (cf. Italy). A similar agreement with the Netherlands, dated 1 April 1933, deals also with the rights of frontier workers.

THE NETHERLANDS

A series of agreements to which reference has already been made has been concluded by the Netherlands with Belgium, France, Germany, Great Britain and Luxemburg.

POLAND

Agreements with Austria, France, and Germany, as has already been pointed out in dealing with these countries, relate to the recruitment of Polish workers for employment in seasonal or other occupations.

SWITZERLAND

No labour treaties properly so called have been concluded by Switzerland, but certain agreements, as for example those with

Afghanistan and Austria, contain provisions relating to the following of trades or professions by nationals of one country in the other or to the engagement of experts. An agreement with Liechtenstein dated 28 December 1923, which supplements the treaty concerning a customs union, stipulates that the Swiss Labour Department and the Government of the Principality are to supply each other with information relating to the labour market with a view to authorising the employment of their respective nationals in the other country. The formalities connected with the entry into either country of the nationals of the other have also been simplified.

YUGOSLAVIA

A labour treaty concluded with France on 29 July 1932 embodies the principle of equality of treatment in respect of labour legislation and unemployment insurance, but pending ratification has not been published. An agreement with Germany regulates the recruitment of Yugoslav workers for seasonal employment in that country (cf. Germany), and another with Italy deals with the question of the reciprocal employment of nationals of one of the two States on the territory of the other (cf. Italy).

§ 2. — Bilateral and Plurilateral Treaties concerning Migration between American Countries

The Office has no knowledge of any labour treaty properly so called concluded between American countries up to the present. A provision concerning recruitment for employment abroad was, however, inserted in the Central American Convention of 1923 on the co-ordination of laws for the protection of workers; and the United States and Mexico have incidentally regulated questions of labour recruitment by agreement.

Costa Rica-Guatemala-Honduras-Nicaragua-Salvador. — According to the Convention signed by the Central American Republics on 7 February 1923, the contracting States are prohibited "from concluding individual or collective agreements in the groups of workers who are nationals of one of the signatory States for their employment in another country — whether a signatory State or not — without the two States having previously concluded an agreement to determine the conditions under which the said workers are to live. The principles of such agreement shall be in accordance with the legislation of each country; and where such legislation does not exist in each country it shall be considered an indispensable condition to guarantee to all workers the cost of returning to their homes".

United States-Mexico. — In the treaty relating to the prevention of smuggling, concluded on 23 December 1925, the United States and Mexico agree that in all cases in which either of the contracting parties may suspend or waive its regulations relating to the recruiting of labourers in the territory of the other, or in cases where either of the contracting parties may grant special permits for contract labour, the country granting such permits or so suspending or waiving its regulations will give due notice thereof to the other.

§ 3. — Bilateral Treaties concerning Migration between Asiatic Countries

No formal agreements exist to regulate movements of workers within the continent of Asia, but most of these movements, which are very considerable, are nevertheless effected by understandings arrived at between the countries concerned. Thus several British possessions (Ceylon, the Straits Settlements, and the Federated and Unfederated Malay States) in order to obtain permission to recruit unskilled labourers in British India have brought their legislation in harmony with the Indian Emigration Act of 1922, and these arrangements have been discussed in committees composed of delegates of the two Parties concerned.

The Chinese Emigration Law of 1918 as well as the regulations regarding recruiting issued by the National Government in 1935 and 1936 are designed to afford protection to the large number of Chinese workers emigrating to various parts of the Asiatic continent. A number of agreements have also been concluded with China by European Powers with territories in Asia, with the object of obtaining the consent of the Chinese Government to the recruitment of Chinese for employment on those territories and of regulating the conditions of employment and repatriation of the emigrants.

§ 4. — Bilateral Treaties concerning Migration between Two Continents

Labour and recruitment treaties between countries on two different continents, like the continental agreements, regulate migration movements and lay down the working and living conditions of emigrants employed abroad. There are, nevertheless, certain characteristics peculiar to the former, for while a large number of continental treaties regulate temporary or seasonal migration movements, those relating to intercontinental migration deal with stable or even permanent settlement. The treaty between Poland and Brazil opens, for instance, with the significant declaration that the object of the agreement is to regulate the migration of families of agricultural workers proceeding to the State of São Paulo in Brazil with the intention of settling there and of persons desirous of employment in rural undertakings or

of taking up land in colonisation centres. Moreover, the principle of reciprocity is not, as a rule, mentioned in these treaties, as the stream of migration flows only in one direction. So far, very few agreements of this kind have been embodied in formal treaties, though negotiations relating to settlement with a view to colonisation are frequently undertaken.

Reference may also be made in this connection to the Round Table Conference between the Governments of India and of the Union of South Africa held in the winter of 1926-1927, at the end of which an agreement was concluded relating to the position of Indians in the Union. The purpose of this agreement was not, however, to regulate Indian emigration which has ceased in accordance with the policy adopted by agreement between the two countries.

AFGHANISTAN

To the general preliminary Convention signed with Switzerland on 17 February 1928, a protocol was annexed in which the plenipotentiaries affirm the desire of the Federal Council of Switzerland " to give every possible assistance to the Government of Afghanistan in engaging in Switzerland any technical experts and specialists who might be required by that Government".

ARGENTINA

Agreements designed to facilitate settlement of farmers in Argentina from Denmark, the Netherlands and Switzerland have been concluded with these three countries.

Argentina-Denmark. — (See below Argentina-Netherlands.)

Argentina-Netherlands. — The main provisions of this agreement, which was signed at Buenos Ayres on 19 April 1937, are as follows :

The Argentine Government undertakes to keep the Netherlands Government regularly informed as to : land available for settlement ; facilities granted by settlement societies, banks and other financial institutions whether existing or prospective ; the system of agricultural credit, co-operation, etc. ; legal conditions of purchase, concession and working of public and private lands suitable for settlement and at the disposal of the banks or settlement societies ; agricultural yield and methods : development works undertaken or projected ; regulations concerning admission of immigrants ; the situation of the employment market ; fluctuations in the cost of living and any other details that may be useful.

The Government of the Netherlands, for its part, undertakes to keep the Argentine Government regularly informed of : the number of persons or families engaged in agriculture who are prepared to emigrate to Argentina as settlers, whether individually or in groups ; the resources at their disposal for settlement ; any legal or administrative conditions laid down by Netherlands administration ; conditions of transport and any other measures which are or may be taken by the Netherlands Government to facilitate emigration.

The agreement provides for the appointment of a mixed committee of six members, three for each country, which shall sit in Buenos Ayres and shall have the following functions; to provide for the regular exchange of the information referred to above; to draw up detailed plans for settlement and all arrangements and contracts relating thereto; whenever the two Governments have agreed on a detailed plan of settlement, to supervise the strict observance of the conditions laid down and the facilities which the Governments of each country and the settlement or financial institutions associated with the execution of the plan have undertaken to give; to see that the settlers comply with the personal and legal conditions agreed upon; to supervise also the transport of the emigrants with special reference to health, safety, payment of travelling expenses, etc.

Argentina-Switzerland. — The terms of this agreement are similar to those of the agreement between Argentina and Netherlands mentioned above.

BRAZIL

Brazil was the first American State to conclude treaties with the object of obtaining the agricultural labour which she requires. Such agreements have been concluded with Italy and with Poland.

Brazil-Italy. — The treaty concluded on 8 October 1921 and styled " A Convention in respect of Immigration and Employment ", was intended to be a statement of general principles to be observed in the negotiation of further agreements.

The main principles are the following:

Equality of treatment with nationals as regards all matters connected with compensation for industrial accidents.

Recognition by the Brazilian Government of individual or collective labour contracts concluded in Italy by Italian workers for employment in Brazil, provided that they are not contrary to regulations made by public authorities.

Recognition by the Federal Government of Brazil of agreements between the competent administrative departments of Brazil and the Italian General Emigration Department in respect of the engagement of Italian workers, provided that the agreements in question have been submitted for the approval of the Federal Government and the Government of the State in which they are to be carried out.

Obligation on the part of the Federal Government of Brazil to ensure through its Labour Department that labour contracts with Italian workers are duly fulfilled and to provide for the protection of such workers and for placing them under the best possible conditions.

Provision of facilities by the Brazilian Government for the organisation and working of consumers' co-operative societies as well as co-operative credit, production, labour, thrift, benefit societies, etc., formed among the Italian agricultural workers, and the operation of societies regularly constituted among Italians in Brazil for the purpose of advising and placing the immigrants.

The treaty also contains the most-favoured-nation clause, which provides that " Italian immigrants in Brazil shall enjoy all the advantages, benefits and privileges now or hereafter granted to immigrants from other countries ".

At the same time as this treaty, a recruitment agreement to which a standard labour contract was attached was signed, as a result of negotiations between the Italian Emigration Department and the colonisation societies of the State of São Paulo. The agreement was not, however, approved by the Government of the latter State.

Brazil (State of São Paulo)-Poland. — An agreement was signed on 19 February 1927 [1] by the Labour Department of the Ministry of Agriculture, Commerce and Public Works of the State of São Paulo and the Emigration Office of the Ministry of Labour and Social Assistance in Poland with the main purpose of making arrangements for the emigration of Polish families to the colonisation centres in São Paulo as wage earners, in the first instance, and eventually as independent agricultural settlers.

According to this agreement, the selecting and recruiting operations are to be carried out by the Emigration Office of the Ministry of Labour and Social Assistance at Warsaw, through the State Employment Exchanges and Offices for Assistance to Emigrants, the final inspection being made in the presence of a representative of the Labour Department of the State of São Paulo.

The arrangements for the transport of the emigrants are to be entrusted only to authorised agents. The conditions of transport are to conform to the laws and regulations of the State of São Paulo regarding assisted immigration, proper food, suitable accommodation and medical assistance in case of illness being assured to emigrants during their voyage. Further, they may be accompanied by a representative of the Polish Emigration Office.

Provision is also made for the repatriation, in accordance with the regulations of the State of São Paulo, of the members of a family whose head, or his wife, has been incapacitated for work as a result of illness or accident.

Equality of treatment with nationals is to be accorded to immigrants in the matter of labour legislation, protection of workers, relief and social insurance, general and technical education and rights of association and combination and facilities are to be provided for the establishment of mutual credit, relief and educational societies as well as all other societies of an economic or social character. Besides, the agreement also includes the most-favoured-nation clause.

Polish families for work on plantations are to be engaged on the basis of a standard contract approved by both the Governments, and planters employing not less than ten Polish families are required to organise a crêche for children and an elementary school.

Provision is also made for a system of inspection, calculated to secure the enforcement of the conditions laid down in the treaty and for systematic relations between the competent departments of the emigration and immigration countries by the appointment of liaison officers. In addition to a representative of the Polish Emigration Office at São Paulo to look after the interests of the immigrants generally, Polish sanitary inspectors may also be appointed to assist them.

Other provisions deal with the facilities to be granted to the Polish immigrants for the requisition of plots of land in São Paulo and the arrangements for fixing the number of immigrants to be recruited each year.

[1] This agreement has not yet been ratified and consequently its provisions are not at present in operation.

PANAMA

Panama-Italy. — A Treaty of Commerce and Navigation was concluded between Italy and Panama and ratified by the former on 8 January 1931, by which workers and undertakings belonging to either of these countries are to have the right in the territory of the other, to all the advantages, facilities and privileges which are or may be granted to undertakings or nationals of a third State.

CONCLUSIONS

I. — Form of the International Regulations

(Point 1)

In drawing up the subjoined list of points on which it is suggested that the Conference might instruct the Office to consult Governments, the Office has made no attempt to distinguish between those points which should be embodied in a Convention and those which should rather be made the subject of a Recommendation, in order not to prejudice the decision taken by the Conference. But, in due course, it will become necessary to determine whether the decisions of the Conference should be contained in one or in more than one text.

Perhaps it will then be found best to incorporate in a Convention a series of principles concerning the recruiting and placing of migrant workers and to group in one or more supplementary Recommendations suggestions for their application on particular points. A Recommendation might be drafted, for instance, to deal with bilateral agreements between States on the subject of the recruiting, placing and conditions of employment of migrant workers. But whatever method may ultimately prove most appropriate, the Office has preferred to refrain, for the present, from pronouncing an opinion on the points to be selected, since the Governments, in replying to the questionnaire which will be submitted to them, will express their opinions as to which of them should be embodied in a Convention and which should rather be contained in a Recommendation.

II. — Supply of Information and Assistance to Migrant Workers

(Points 2-4)

The conscientious supply of reliable information is the first duty of the community towards workers considering migration from one country to another, and has been made the subject of national regulations in most countries even where the State does not directly participate in the recruiting and placing of migrant workers. The national laws and regulations seek above

all to *protect the migrant against misleading propaganda*, and a number of international conferences have adopted resolutions stressing the desirability of such protection. The question of the prohibition of misleading propaganda concerning emigration and immigration is accordingly raised in paragraph 1 of Point 2 of the List of Points. The effective suppression of such propaganda usually involves the checking of publicity in connection with recruiting of workers in one country and their placing in another. This question is dealt with by the second paragraph of the same Point, which covers publicity of this type in all its forms, with a view to eliminating the possibility of evasion by persons who, if some of the forms only were prohibited, would make use of others and continue to speculate upon the ignorance and inexperience of workers seeking employment.

The organisation of the supply of information calls for a series of positive measures of various kinds, many examples of which may be found in existing national laws or regulations. It is of primary importance, if the interests of migrants are to be effectively protected, that *the furnishing of information should not be a mere formality* such as the offering of a prospectus or the quoting of the price of a ticket. It should be rather in the nature of a *genuine information service for workers who need advice and help* in coming to a decision possibly of great importance for their future, and should be accompanied by services dealing with such indispensable practical matters as the securing of passports, identity papers, etc., so that they will not have difficulties with the authorities of the country to which they migrate. It frequently happens that the migrant becomes involved, as a result of his forwarding an application too late or forgetting some formality of which he did not properly understand the meaning, in considerable expenses and serious complications; sometimes oversights of this kind may even completely upset his plans, lead to his expulsion from the country of immigration, or oblige him to lead the life of an "outlaw". The first paragraph of Point 3 was drawn up with a view to preventing complications of this kind. It is proposed that the projected service should be free, i.e. that the migrant worker, though he may be invited to reimburse certain of the expenses incurred on his account by the service (cost of telegrams, etc.), should not have to pay for information and advice.

In most countries public administrative bodies — consular services, employment exchanges, etc. — have been empowered or instructed to reply to the applications of migrant workers. Further, in countries where migration plays an important part, the State, besides providing official services, often promotes the activities of various voluntary societies in the field of assistance and information for migrant workers, in so far as they are considered to be qualified for such activity. It is often thought, indeed, that non-official bodies have an advantage over official institutions in that they command the confidence of prospective emigrants and immigrants, remain in continual contact with them, and are in a position to carry out personal investigations, occupy themselves with individual cases, and give personal advice. The Conference will no doubt desire to consult Governments on the advisability of setting up, in each country in which none yet exists, an official service for the supply of information and assistance to migrant workers, and on the question of encouraging private bodies pursuing social aims to engage in the same activity under the supervision of the State. It was with this in view that the second paragraph of Point 3 was drafted.

Public and private bodies engaged in supplying information to migrants need, of course, themselves to be kept fully informed of national regulations concerning the emigration and immigration of workers and their access to the employment market. The efforts of these bodies are often frustrated, however, by the failure of Governments, in amending their regulations, to allow a *sufficient interval between the promulgation and the coming into force of the new provisions* to enable them to be brought to the notice of those who may be affected, either by the Government itself or by some other body acting on its own initiative. The resolution on this subject voted by the International Emigration Commission in 1921 is but one expression of a desire widely entertained, for the history of migration in post-war years abounds in examples showing the need for a change in State practice in this respect. Tens of thousands of migrants, workers and members of their families, after selling all their property and severing all their connections in their countries of origin, have found themselves stranded in countries of transit, or been rejected on arrival at their destination simply because they had not been informed in time of the introduction of some new regulation. The question

contained in paragraph (*a*) of Point 4 has been framed with a view to the preparation of measures to prevent misadventures of this kind, which must inevitably exercise a harmful effect on international migration.

In this connection it should be noted that certain countries have recognised the utility, when laws and regulations concerning emigration or immigration permits or the admission to employment of foreign workers are amended, of a certain measure of publicity in places through which the principal currents of workers' migration pass, and have passed legislation making such publicity compulsory, for instance, for recruiting or transporting agencies. The Conference may consider it advisable to consult Governments as to the possibility of generalising such a practice. Though publication *in extenso* of the amended texts in poster form would not always be practicable, the issue of short summaries or of notices likely to attract attention and to lead workers to apply personally for more detailed information would frequently prove sufficient. As regards the languages used, too, certain limitations would have to be observed, and publications would have to be issued only in those most commonly known to the migrant workers using the premises or services in question. Paragraph (*b*) of Point 4 was drafted with a view to making provision for this practical aspect of the matter. It may be that the questions raised in the two paragraphs of Point 4 are hardly susceptible of solution by means of an international Convention. But the Conference will doubtless wish, in view of their importance from the humanitarian standpoint, to consider making each of them the subject of a recommendation.

III. — Recruiting and Placing Operations

(Points 5-10)

The growing desire of States to supervise the arrival and departure of workers recruited in one country for employment in another may be seen in many existing national regulations and international agreements. The purposes of the supervision vary widely : registration for statistical purposes ; protection of migrants' interests ; prevention of the contravention of the various regulations in force ; prevention of clandestine recruiting in emigration countries ; prevention, in times of unemployment or during industrial disputes (strikes and lockouts), of the engagement, in immigration countries, of immigrant workers

likely to compete with nationals in the employment market; etc.

Where State supervision is effected on the basis of the applications for workers made by the employers of the immigration country, there is a tendency to submit these applications to the authorities of either the immigration or the emigration country, or more usually of both in succession, for their examination. The possibility of introducing the compulsory application system in a country depends, of course, upon the nature and organisation of its migration movements. Without going into this aspect of the question, the Conference may perhaps find it desirable (as is envisaged in Point 5) to consult Governments on the necessity of submitting whatever applications are made to the authorities of the States concerned, in order to protect both the workers' interests and the employment markets.

The organisation of the recruiting and placing of migrant workers is also coming more and more under the supervision of the public authorities. In a sense, of course, this is but a particular aspect of the general organisation of the employment market — a matter which falls outside the scope of the question on the Agenda and which has already been made the subject of decisions of the Conference (including Conventions No. 2, concerning unemployment, and No. 34, concerning fee-charging employment agencies). The particular risks to which migrant workers are exposed in their recruitment, however, raise a number of special problems upon which it would be useful to consult Governments within the framework of the question on the Agenda of the Conference.

The preceding study of the various systems of regulation in force has shown that most of them aim at restricting the activities of private bodies in the field of the recruiting, introduction and placing of migrant workers; either they place the monopoly of such activities in the hands of a public administrative service, such as the employment exchanges, or they require unofficial bodies engaging in them to obtain the approval of the authorities and in particular an *ad hoc* licence. The conditions required of individuals or agencies wishing to engage in recruiting and placing activities vary considerably from country to country, but in general the principal difference is between regulations governing the direct recruiting or placing by the employer himself and those

applying to recruiting and placing effected through a professional intermediary specialising in such work. A point has therefore been drafted providing for the possibility of envisaging action by an administrative service, either alone or together with certain private persons or bodies specially licensed and working under the supervision of the State, a distinction being made in the latter case between the employer himself (or persons engaged by him and acting only on his behalf), and intermediaries, whether persons or organisations, representing a considerable number of migrant workers or several employers (Point 6, paragraphs 1 and 2).

Governments might also be consulted as to the necessity, where the recruiting, introduction and placing of migrant workers is not exclusively in the hands of an official body, of supervising the work of the private persons and organisations working under licence in this field, with a view to safeguarding the interests of the workers and protecting the employment market. This supervision is in fact frequently exercised by the public employment exchanges, and its extent and severity naturally vary with the number, scope and length of the operations in which the bodies in question engage. Some of these organisations are permanent institutions, taking the form of companies with considerable financial and other resources, which engage in the recruiting and placing of workers in many different occupations and over very wide areas (Point 6, paragraph 3).

A condition which is frequently imposed on intermediaries of every kind is that they must, whenever acting on behalf of an employer, produce a written warrant that he has in fact empowered them to do so. This point (Point 7) is essential if the desired supervision of the prospective employer or recruiting agent by the authorities of the country of emigration or of immigration is to be really effective.

One of the principal purposes of official supervision is the reduction to the minimum of the costs of workers' migration, for it is clear that abuses in this respect have very serious consequences for the migrants and that excessive charges tend to paralyse workers' migration in general. The variety of the charges that may be levied on the worker himself or his employer (possibly, to be recovered later from the worker), whether they are paid or advanced by one or by several persons or organisations, is very large: fees for the drawing up and

delivery of documents ; commissions and margins on operations in foreign currency ; charges for formalities of various kinds carried out on behalf of the migrant ; expenses connected with his selection and the passing of various examinations, transport, the distribution and placing of the immigrants on arrival, and the provision of board and lodging, medical attention, and the services of guides during or in connection with the worker's transport.

Experience has shown that it would be useless to fix a maximum for certain of these charges only, for unscrupulous agents would still be free to make up their profits by charging high fees for services not covered by the regulations. The exploitation of the migrant worker can therefore be prevented only by the fixing of compulsory scales for services and financial help of every kind rendered during or in connection with his migration, based upon their actual intrinsic value. Such regulation is envisaged in Point 8.

State supervision may also be exercised through the examination of workers recruited for employment abroad (Point 9). This method can render valuable services both to the States themselves and to the migrants, and prevent, when adopted in time, complications which, if allowed to arise, may be very hard to settle. It has been used for widely differing purposes : the protection of the general interests of the State, of the local community, or of the migrants ; the organisation of the employment market ; as a precautionary measure for safeguarding the personal interests of the migrant and his family ; as a means of selecting the most suitable workers for a given employment ; in order to prevent the migration of workers who on arrival would find themselves unable to perform the work offered ; etc. Without entering into a detailed study of the forms that the examination of migrant workers might take, there appear to be three special aspects of the question which call for attention from the point of view of the workers' interests :

(1) The risk of rejection in the country of destination. Experience has shown that this risk may be eliminated or at least reduced considerably if the workers are examined before their departure by an official of the country of immigration. Such a procedure would provide the worker with the assurance that, failing unforeseen developments, he would find himself in order as regards conformity with the various provisions governing the admission of immigrants (paragraph 1 of Point 9) ;

(2) The efficiency of the operations of selection preceding departure. The desire to ensure that the selection of workers is carried out under the best possible conditions has led the authorities of the countries concerned, particularly of the emigration countries, to employ expert officials to be present at all recruiting operations involving a considerable number of workers (paragraph 2 of Point 9);

(3) The exposure of migrant workers who have to travel long distances before they can take the examinations to useless expense, loss of time and other inconveniences, and the consequent necessity of reducing these distances to the minimum (paragraph 3 of Point 9).

Finally, it should not be forgotten that the journeys undertaken by migrant workers affect as a rule not only the workers themselves but also their wives, children, and other members of their households who are legally dependent upon them. Except when workers have no dependants with whom they desire to remain in close touch (which does not appear to be the case with the majority of migrant workers) or when they have to spend only a short and clearly determined period abroad, they and their families generally wish to be together in the new country, or at any rate to come together after a short initial period of separation in which the worker can become acquainted with his work and make the necessary preparations. In the long run, these ordinary human needs will prove too urgent, both individually and socially, to be denied or ignored by official regulations, more particularly as the dependants of migrant workers do not, save in altogether exceptional cases, compete with the workers of the immigration country. Moreover, the stability and the output of immigrant workers who are permitted to set up their homes and live with their families are obviously greater than those of workers who have to live alone. Regulations made by the principal immigration and emigration States, therefore, and particularly those introduced during years of economic depression with a view to restricting migration, have been drafted in such a way as to mitigate as far as possible the difficulties caused for the families of the workers affected. Members of these families have sometimes been granted exemption from some or all of the usual formalities and charges; in cases in which migration was regulated under a quota system, they were accorded priority within the limits

of the quotas. Such measures, which are an integral and essential part of a social policy aiming at the protection of the interests of the workers, are envisaged in Point 10.

IV. — Conditions of Employment

(Points 11-13)

The third aspect of the problem on the Agenda of the Conference is that of the conditions of employment of migrant workers, with particular reference to the question of equality of treatment between immigrant and national workers.

1. — *Equality of Treatment* (Point 11).

Equality of treatment as regards conditions of employment is coming more and more to be recognised as a guiding principle in national laws or regulations, bilateral agreements relating to migrant workers, and all international regulation of conditions of employment. It was therefore decided to include in the list a point (No. 11) in replying to which Governments might state what importance and scope they attach to this principle for the purposes of laws, regulations, agreements and contracts between the parties, and international administrative or diplomatic arrangements, relating to conditions of employment of workers recruited in one country for employment in another.

Although Point 11 is drafted in such a way as to make its scope as general as possible, the limitations imposed by the question on the Agenda have been observed, and only conditions of employment have been dealt with, equality of treatment in other related matters — social insurance, the right of combination, etc. — being left aside. Decisions already taken on these matters by the International Labour Conference are mentioned in section 1 of Chapter III of the present Report.

Point 11 does, however, draw special attention to the question of wages, for it is plain that workers recruited abroad are frequently more exposed to exploitation in this respect, and less able to defend themselves, than other workers whose experience and resources are greater. They and their families need, more than anyone, effective protection in regard to the methods of payment of wages, the extent to which their wages are liable to deductions or distraint, and their claims in the case of their employer's bankruptcy. From the stand-

point, too, of the national employment market of the immigration country, as has been pointed out repeatedly in trade union reports, it is in the field of wages that the competition of foreign workers may be most harmful. These considerations have led the Office to place the question of wages in an explicit form under paragraph 1 (*a*) of Point 11. The question of taxes, mentioned in paragraph 1 (*b*), is closely connected with that of wages, for there can be no real equality of wages where there are inequalities of taxation. A number of provisions, especially those contained in bilateral agreements, have already prepared the way in this matter, and would seem to suggest that the time has come to make it the subject of a question to Governments. The question has, however, been limited to the study of taxes or payments charged in the immigration country in respect of the employment of migrant workers (irrespective of whether they are charged to the worker himself or to his employer, since it is always, in the last resort, upon the former that they fall).

So far only equality of treatment for foreign workers already in employment has been considered. But the question has been raised of equality as regards their admission to employment, and its corollary — their discharge. Can equality of treatment as regards conditions of employment be said to exist when certain members of the population of a country, duly authorised to reside there as workers, are subjected to prohibitions and restrictions, which make them the first to be dismissed and the last to be engaged ?

The International Labour Conference has already had occasion to pronounce itself on this question. During the discussion, at its Twenty-third Session, of Recommendation No. 51, on the national planning of public works, the Conference recognised (Paragraph 8 of the Recommendation) that " foreign workers authorised to reside in the country concerned should be accepted for employment on public works on the same conditions as nationals." The Conference will probably wish to consult Governments on the possibility of generalising this principle (paragraph 1 (*c*)).

The principle of equality of treatment may be applied in two different ways : equality may be granted unconditionally, or on condition of reciprocity, (and the reciprocity may be either *de facto* or *de jure*). In case of the unconditional granting of equality of treatment the country of residence acts in the

belief that such equality is called for both by humanitarian and social considerations and in the interests of its nationals, and that the automatic application of the principle by a certain number of States would in the long run make it impossible for the remaining States to maintain contrary restrictions and discriminations. In the case of the granting of equality subject to reciprocity, however, the State retains a safeguard and a means of bringing pressure to bear on the countries of origin of immigrant workers within its frontiers which refuse to recognise, either theoretically or practically, the right of its own nationals to equality of treatment. Finally, since the condition of *de facto* reciprocity may give rise to certain difficulties of application if no international procedure is laid down to ensure the practical application of equal treatment in the various countries, a third solution may be adopted, namely, what might be called automatic reciprocity under an Article in an international Convention ratified by Member States.

Governments might usefully be invited to comment on these three possible solutions (paragraph 2 of Point 11).

2. — *Contracts of Employment* (Point 12).

The migrant worker is faced with a dilemma : if he accepts a situation before his departure he may, in his ignorance of conditions in the country of destination, sign a contract which proves to be unfavourable to him ; if, on the other hand, he migrates without having first secured a situation, he cannot be certain of finding satisfactory employment immediately on his arrival. To eliminate the first risk, certain immigration States have prohibited the conclusion of the contract before the departure of the worker ; while others, to eliminate the second, have made the previous conclusion of the contract compulsory. Those which have adopted the latter course are States where the organisation of migration movements has reached an advanced stage and includes a supervision of contracts of employment for protecting workers against mistakes to which their ignorance of conditions in the immigration country make them liable.

Neither of the two methods, however, appears suitable for inclusion in an international Convention. The first may be looked upon as retrogressive by the States which have adopted the second, while the second, besides being regarded by the advocates of the first as contrary to their traditions,

would be inapplicable except as part of a wider and more general scheme for the organisation of workers' migration — which many important countries are unwilling to consider.

Though it is not proposed, therefore, that the Conference should consult Governments on the advisability of making compulsory the conclusion of the contract before the departure of the migrant, it is thought that the Conference might wish to discuss the question of the regulation of contracts voluntarily entered into before departure, in the light of the experience of countries which have already introduced measures for this purpose. A large measure of variety is to be found among existing provisions, standard contracts, and individual contracts concluded by migrant workers, but there is a common feature which must be regarded as fundamental, namely, the importance attributed, for the protection of the migrant, to the inclusion in the contract signed (whether compulsorily or voluntarily) before his departure of clauses specifying clearly the various conditions of his engagement. Contracts entered into by migrant workers before their departure should, without prejudice to national practice and legislation, be made to include clauses dealing explicitly with certain points.

In the first place, in order to prevent all possibility of doubt, the exact duration of the contract should be stated in the contract itself (paragraph (*a*) of Point 12). Many subsequent disputes would also be avoided if the date on which and the place at which the migrant is required were stipulated (paragraph (*b*)).

A further matter on which it is of the highest importance that the worker should be clear on accepting employment abroad is that of the method of meeting his travelling expenses (paragraph (*c*)), for misunderstandings on this subject may, in view of the large sums of money involved, have very serious consequences. Several aspects of the matter should be distinguished: the outward journey of the worker (paragraph (*c*) (i)); the homeward journey, either at the end of the term of the contract or prior to its expiry if the worker becomes unfit for work as a result of an accident or illness (paragraph (*c*) (ii)); and the outward or return journey of members of the worker's family accompanying him or joining him later if authorised to do so (paragraph (*c*) (iii)). Special attention is drawn to the case of the death of the worker either in the

course of the journey to the place of employment or during the period of his engagement, for in this case the family is frequently repatriated free of charge. On each of these three points the parties would be free to agree on whatever solution they wish, but they would have to state it clearly and in detail in one or several clauses of the contract.

The large number of workers who migrate with the help of advances, either in money or in kind, and the particularly serious risk of their running into debt call for the insertion in the contract of a clause dealing with this subject. It is suggested in paragraph (*d*), not that there should be any specified rule in the matter, but that the contract should make clear the exact extent of the rights and obligations of the parties as regards sums which the employer or his agents spend in connection with the recruitment, admission or placing of the worker, and of which they are entitled to claim repayment. The last paragraph (paragraph (*e*)) refers to a subject which is frequently mentioned in contracts and is of considerable practical importance both from the general social standpoint and from that of the conditions of life of migrant workers and their families. The migrant worker must be given, before he signs his contract, certain definite information regarding the nature and cost of available housing accommodation for himself and his family in the neighbourhood of his future place of work.

The enumeration, in Point 12, of the questions whose compulsory settlement in the contract of employment concluded before the departure of the migrant worker might be recommended is not of course intended to be exhaustive; and in other respects the various national provisions regulating contracts of employment would apply to those of migrant workers as well as of nationals.

3. — *Labour Inspection* (Point 13).

Like all other labour legislation, measures for the protection of migrant workers, if they are to be effective, must be accompanied by the setting up of supervisory and inspection services. It is worth noting, in this connection, that several important immigration countries have recognised the value of employing special officials (sometimes, indeed, whole services) for the supervision of the conditions of work and life of migrant workers.

Especially in districts inhabited by large numbers of immigrants of the same nationality, it is desirable that labour inspectors and other similar officials engaged in this work should have a knowledge of their language and national customs (Point 13). The field of action of these officials is thus very wide, and extends far beyond that of ordinary police work. It may involve — as is provided by certain contracts, national regulations and bilateral agreements — conciliation between migrant workers and their employers, and the friendly settlement of disputes between them.

Attention has also been drawn, in Point 13, to the tendency of most immigration States to organise co-operation between their official inspectorates for migrant workers and approved private bodies of all kinds (occupational, philanthropic, etc.) which engage in the work of protecting and assisting workers or their families and are in constant touch with them. This co-operation may take the form of mutual consultation in enquiries (either of a general nature or into special cases), or it may take place in connection with the training of social workers. In some countries the national administrative services are in constant and direct communication with all the approved private bodies, or with a committee representing them. In others, national or regional official organs have been created to constitute a permanent link between the public services and private bodies.

However, it is on the principle and not on the method of this co-operation that it is suggested Governments might be consulted, with a view to collecting the results of their experience, particularly as regards the assistance of women migrant workers and young migrant workers.

V. — Repatriation

(Points 14-16)

The departure of migrant workers is always followed — after an interval of varying length — by a number (sometimes large and always considerable) of repatriations of workers who, either voluntarily or through necessity, return to their country of origin.

Attention has already been drawn, in connection with Point 12, to the desirability of the inclusion in contracts signed before the worker's departure of the exact conditions of his and his family's repatriation in certain specified cases.

It must also be asked, however, whether the worker should not, in certain cases, be relieved entirely of the cost of his repatriation.

The question might be put with reference to a number of cases which experience shows to be typical. If the migrant is not admitted to the employment for which he was recruited owing to some fault of his own, he can claim no right to assistance. But he may bear no responsibility whatever for such rejection and the consequent return to his own country. An error or fraud may have occurred, without his free consent, in connection with his recruitment; the authorities of the immigration country may have rejected him at the frontier; he may have been expelled from the country before entering into the employment to which the contract entitled him; he may have fallen sick or been disabled as the result of an accident before entering the employment (when once he is at work he is protected by the law and in particular by his contract of employment); a labour dispute affecting the undertaking where he was to work or some other circumstance beyond his control may have been the cause of the difficult position in which he finds himself.

For the cases — of which it would be impossible to make an exhaustive list — where industrial disputes are the reason why the migrant is not admitted to the situation offered to him in the contract, various solutions are provided by national laws or regulations; sometimes repatriation costs are charged to the transport agency which has arranged for his outward journey, and sometimes to the recruiting agent. In general, it may be said that apart from considerations of justice there are both social and humanitarian arguments in favour of relieving the migrant worker (and if need be, his family also) of the cost of the homeward journey if his repatriation is due to causes for which he cannot be held responsible. This question is dealt with in Point 14.

No attempt has been made to decide which bodies, in the various cases envisaged, should bear the expenses of which the worker himself is relieved, this question being left for solution by national laws or regulations. In view of the existing regulations of the majority of countries, however, it is considered that the point to be examined should cover the repatriation not only of the worker himself but also of his family, and that the return of the repatriated persons to their final destination

and not merely to the frontier of the immigration country or the port of embarkation should be secured. It should be added that if a worker demands to be transported to a place, other than his country of origin, in which he has a certainty of being well received, and if the journey involved costs no more than the return journey to his country of origin, the measures envisaged under Point 14 would not exclude a solution of that kind.

A last type of case — which ever since the beginning of the world economic depression has constituted a serious practical problem — remains for consideration, namely, that of repatriation by State action for economic reasons. Hundreds of thousands of workers who, had the depression not occurred, would have continued to work in the countries of immigration have been sent back, as a result of official measures taken to deal with the economic situation, to their country of origin.

The immigration States which effect repatriations of this kind claim that their action is forced upon them by the pressure of events, that economic depressions bring with them sudden and considerable reductions in the demand for labour, and throw continually increasing numbers of national workers out of employment with little hope of soon finding new work. If it is admitted that the duty of the State is to protect, in the first place, those who have been resident longest on its territory, it is argued, the expulsion of foreign immigrant workers in order to relieve the employment market in the interest of unemployed nationals is justified. These States further assert that since many migrant workers, even in normal times, only spend short periods away from their own countries, their repatriation at times of economic depression constitutes merely a shortening of a visit which was in any case intended to be of limited duration.

Many protests, however, have been made against this type of repatriation, both by the workers repatriated and by those countries which, at a time when they were grappling with widespread unemployment within their borders, were unexpectedly faced with an influx of workers from abroad. It is asserted on this side that a country which recruits workers — or allows them to be recruited — beyond its frontiers in order to satisfy its internal economic needs, whether it merely transplants them to its own territory or actually uses their labour, should not be free to repatriate them arbitrarily

at any time which suits it, but should be obliged to extend to them the usual social services provided within an organised community, and at least unemployment and poor relief. It is also pointed out that the capacity to resist the effects of economic depression is generally much smaller in emigration than in immigration countries.

The national and international consequences of repatriation of this kind have been of such a serious nature during the last few years that the Office feels compelled to bring them to the notice of the International Labour Conference.

In ascertaining the views of Governments on the principle of inviting the immigration States to bind themselves not to repatriate migrant workers in this way, certain limits will have to be observed in the framing of the question. It would hardly be possible, for instance, for an immigration country to undertake not to expel foreign workers residing illegally within its territory ; nor should an engagement which an immigration country is expected to enter into deprive it of the right to encourage, by means of subsidies etc., the return of unemployed or indigent workers to their countries of origin in cases in which such workers freely and spontaneously decide that they wish to return. In any case, it seems that one possibility for repatriation should be left open and mentioned expressly in the engagement, namely, repatriation in virtue of an agreement or administrative arrangement concluded between the country of immigration and the country of origin entitling the former to repatriate nationals of the latter at will.

A solution of this kind would have the merit of solving completely the serious problem which repatriation for economic reasons or as a result of depression constitutes for migrant workers and for the States concerned. But the Governments of certain countries may at present feel unprepared to enter into an undertaking such as that envisaged in paragraph (*a*) of Point 15 by means of a general international Convention.

In order to meet this possibility, an alternative solution — of considerably narrower scope — is proposed in paragraph (*b*), namely, the determination of a qualifying period of residence after which a regularly established migrant worker may not be repatriated for economic reasons.

The idea that, pending the creation of a regular legal status for aliens resident in the territory of a given country, a

eertain minimum of rights should be assured to those established and resident there for a eonsiderable time, was put forward soon after the Diplomatic Conference on the Treatment of Foreigners held at Paris at the end of 1929, whieh eompletely failed to fulfil the hopes of those who thought that it would elaborate a just and liberal seheme. A similar idea was given preeise expression in the eourse of the work earried out by the Committee of Government experts on the subjeet of assistanee to indigent foreigners with a view to the preparation of a general international Convention under the auspices of the League of Nations. Artiele 5 (formerly 6) of the second draft, prepared in January 1936 by the Expert Committee, stipulates that a foreigner who has been resident in the same eountry for ten years or more shall in no eircumstanees be repatriated without the eonsent of the eountry of emigration. Be it noted in passing that the foreigners in question are persons without means receiving public assistance from the country of residence or being cared for in hospitals, rest homes, etc. ; in other words, they are persons who, far from being a source of gain to the State in whose territory they live, constitute a heavy and prolonged charge upon it, in comparison with which the cost of the maintenance of foreign workers temporarily out of work would seem negligible [1].

The persistence and aggravation of the world economic depression has compelled Governments whose territory is inhabited by large numbers of foreigners to observe certain limits in repatriation for purely economic reasons, and to exempt foreigners who are properly established. The French Government, at the beginning of 1935, decided that the applieations of foreign workers who had been resident in the country for at least five years for the renewal of their employment permits should receive favourable consideration. On 16 June 1935 an agreement embodying this principle was signed at Paris by representatives of the Belgian and French

[1] It may be noted that agreements eoncerning assistance often provide for a privileged treatment for workers in eonnection, for example, with the length of the period at the expiration of whieh the authorities undertake not to repatriate an assisted foreigner. The Assistanee or Labour Conventions concluded by France with Italy (1919), Poland (1920), Belgium (1921) and Luxemburg (1923) eontain a elause the effect of which is to fix this period at five years in the case of persons suffering from invalidity as the result of an occupational disease even if the assistance is given for the maintenance of persons who are old, infirm or incurable although the usual period in this kind of assistanee is 15 years.

Governments and the French Government has made a statement on similar lines to the Governments of other countries with which it has concluded treaties.

This is the method referred to in paragraph (*b*) (i) which mentions (as an example) this qualifying period of five years after which a foreigner would not be liable to repatriation for reasons connected with the condition of the employment market or with his lack of means. A longer qualifying period would hardly seem to offer the minimum of protection which is due to workers who have established themselves in a foreign country, become part of the local community, and even, as is frequently the case, intermarried with the native population. Neither should it be forgotten that none of the permits of residence or of employment at present granted in immigration countries are of more than two years' validity, so that the authorities have ample opportunity, on the occasion of the prolongation or renewal of these permits, to carry out whatever enquiries may be necessary into the applicant's case and ascertain whether he is playing a useful part in the national productive or economic life. A qualifying period of five years would thus offer the immigration country sufficient time to bring migrant workers established upon its territory under effective supervision.

The application of the method envisaged in paragraph (*b*) (i), however, would still leave large numbers of foreign workers liable to repatriation for economic reasons, and the Conference will doubtless desire to consider, if such a method is adopted, what protection should be afforded to them. Paragraph (*b*) (ii) contains a certain number of suggestions on this subject. It would seem reasonable, in the first place, to expect of the immigration State that it should, before repatriating a foreign worker, assure itself that he has exhausted all his rights to unemployment insurance benefit, for the benefit provided under an insurance scheme really represents, to a large extent, the counterpart of contributions paid in by the worker or on his behalf, of which it would be unjust to deprive him. Further, while in receipt of such benefit, a foreign worker should not be regarded as a pauper living on public relief.

A second point of importance is that a worker who is being repatriated should not be treated like a criminal under an extradition warrant ; he is entitled to a certain consideration,

e.g. notice sufficient to allow him to make the necessary preparations, reasonably comfortable material conditions on the journey so as to prevent unnecessary privation or fatigue. Finally, since his departure is taking place not as the result of his own free choice but on the decision and initiative of the authorities of the country of residence, he can hardly be called upon to bear the cost of his and his family's transport to their final destination ; if this expense is not due to be borne by a third party the question arises whether the State which repatriates a worker should not itself pay the cost of his return journey (as is already laid down in the laws or regulations of several countries).

Point 16 constitutes, in a sense, the counterpart of Point 15, and proposes that Governments should be consulted on the necessity for facilitating the entry of repatriated migrant workers — and, where necessary, of their families also — into the poor relief and unemployment relief systems of their countries of origin.

It is true that no existing national laws or regulations contain provisions which deny to nationals who have been repatriated from foreign countries equality of treatment with workers who have never left the country. What the repatriated worker has to fear, however, is his being left without help, in the absence of special measures in his favour, during the initial period of his reinstallation in his country of origin. He returns, as a rule, with his means completely exhausted, and after having already been unemployed for some time. To compel him, in these circumstances, to fulfil the usual conditions as to previous residence or employment in the country or locality, is not really to apply to him equality of treatment with the local population, but to put him in a position of clear inferiority ; and the fact that he is unknown in his neighbourhood handicaps him still further as against the local unemployed, who are already known to the employers.

VI. — Bilateral Agreements

(Points 17-18)

The purposes aimed at in the foregoing points could be attained, in a considerable measure, by unilateral action. The efficacy of many of the measures proposed, however,

would be greatly increased if countries of emigration and immigration were able to apply them in co-operation.

Since the world war, a growing number of bilateral agreements have been concluded with a view to common organisation by the contracting States of the migration of their nationals, and it is felt that Governments might usefully be invited to communicate the results of their experience in this field. The rôle of the Conference will consist, not in seeking to oblige Governments to conclude bilateral agreements or organise all or part of their migration movements on a bilateral basis — an obligation which would conflict with the traditional policy of many States — but rather in indicating to Governments which desire to pursue an active migration policy and to conclude bilateral agreements concerning international recruiting and placing, what should be the elements of such agreements.

The principles which the agreements should incorporate are specified in Point 17 and are, with few exceptions, identical with those dealt with in the preceding Points. It is, therefore, hardly necessary to analyse them again here, and reference will be made to only two of them — paragraphs (*c*) and (*h*).

The question raised by paragraph (*c*) is by no means new. For a long time past attention has been drawn repeatedly to the difficulties encountered by migrant workers in obtaining, in the country of residence, or even in the country of emigration, the certificates and identification papers needed in connection with their authorisation to reside or work in the country to which they have migrated. The expense and loss of time involved, and the insurmountable obstacles which sometimes ruin a migrant's plans completely, constitute a serious problem, which is closely connected with a second — that of the complicated nature of the formalities and documents required in connection with the migration of workers and their families. The simplification of passport visas was called for as long ago as 1924 by the first International Conference on Emigration and Immigration, held at Rome; in 1928 the second International Conference on Emigration and Immigration, held at Havana, again raised the question, and in 1930 the Japanese Government representative brought it to the notice of the Migration Committee of the Governing Body of the International Labour Organisation. A memorandum on the subject was addressed by the International Labour Office to the

Advisory and Technical Committee on Communications and Transit of the League of Nations, which, after consulting Governments, decided that it was no longer necessary to retain the question on its agenda. The question therefore arises whether the conclusion of agreements between the States directly concerned does not offer at present the best means of surmounting these difficulties, whether they relate to the migrant workers' possibilities of procuring the papers that they need or to the various formalities imposed and documents required by the competent administrative authorities.

Probably the Conference will also desire to consult Governments as to the possibility of assuring, again by means of bilateral agreements between emigration and immigration States, the recognition in one country of the validity of documents issued to migrant workers by the other. Such a measure would have many advantages both for the migrants and for the administrative services of the two countries, for it would eliminate many occasions for mistakes and disputes. It would also conform to a resolution of the International Emigration Commission favouring the recognition, in immigration countries, of the full validity of contracts of employment concluded by workers in their countries of emigration, except in the case of clauses contrary to public order.

Paragraph (*h*) deals with the question of the employment of nationals of a State who are not "indigenous workers" in the sense used in Convention No. 50 (Article 2), and who, having migrated from their country of origin, reside in another country, by undertakings situated in the colonies, protectorates or mandated territories of that country. The usual rules governing recruiting, placing and conditions of employment can hardly be applied in such cases automatically and without certain modifications : the habits of life of the workers in question may, for instance, necessitate for them conditions of employment and life differing considerably from those of the population of the territory in which they are to work. Rather than mention cases of this kind under each Point in the list, however, it was felt that the Conference would prefer to leave them to be examined and suitably settled in bilateral negotiations, or agreements between the countries directly involved. (This particular question has already been dealt with in negotiations between certain European States).

On the other hand, it is thought desirable to draw special attention, by their separate mention under Point 18, to certain forms of co-operative action which bilateral agreements between emigration and immigration States would render possible, and which are of special interest from the point of view of the organisation of migration and the protection of migrant workers. The wide range of subjects to which these forms of activity relate makes their number and variety too great to permit of exhaustive enumeration. Those which have been selected for special mention have been chosen in view of their general interest and of the amount of available data concerning them.

In so far as the migration of workers is undertaken, as envisaged in Points 5 and 12, as a result of employers' applications and contracts of engagement, steps might be taken to standardise these by drawing up standard applications and contracts, containing standard clauses and drafted according to principles agreed upon between the two States concerned, the further inclusion of special clauses which do not conflict with the standard provisions being allowed. Such a standardisation would contribute to the clarification and precise definition of the rights and obligations of the parties, facilitate supervision by the competent State services, simplify recruiting and placing operations, and reduce the grounds for possible misunderstandings and disputes (paragraph (*a*)).

In cases in which two States agree (paragraph (*b*)) to communicate to each other applications of employers of one State for workers of the other, they can agree also to fix periodically and in advance, generally by means of negotiations between representatives of the competent administrative services, the number of workers (by industry or for the whole country) who may — or should — be recruited or placed in the course of a year or season. In some cases, arrangements have even been made to allow for a reconsideration, during the period chosen, of the needs or possibilities of recruiting or placing of migrant workers, and for a readjustment of the quotas previously adopted. (See also paragraph (*d*)).

In cases in which an immigration country's demand for labour leads its employers to make offers of employment, either directly or through their agents or offices, to the workers of an emigration country, and in which the two States concerned have decided to co-operate in the organisation of

workers' migration, the Governments frequently agree upon the methods to be used by the bodies mentioned in Point 6 in their recruiting and selecting activity, and upon the procedure to be followed in the examination of prospective migrants (see paragraph 1 of Point 9). Agreement on these matters becomes imperative when the bodies in question are official services, since most States do not allow public officials of foreign countries to engage, without their authorisation, in recruiting and selection operations within their territory. Besides, collaboration in this field between the competent authorities of the two countries increases considerably the efficacy of the measures of supervision, selection and protection for which the administrative services are responsible. The situation is similar as regards the protection of the nationals of one country working on the territory of another, and for this reason both these subjects are mentioned in the same paragraph (paragraph (*c*)). It is true, of course, as is noted in Point 13, that the inspection of the conditions of employment of migrant workers is usually carried out by an administrative service of the immigration country ; but it frequently happens that an emigration country feels obliged to follow, through its agents, consuls or emigration counsellors and attachés, the fortunes of its workers while they are resident there. Here too, few States would be prepared to permit, except in virtue of an agreement of the type concluded since the war by certain Governments, the presence and activity on their territory of special attachés and protective services directly dependent upon a foreign administration.

The final paragraph (paragraph (*d*)) deals with a clause to be found in many bilateral agreements, which sets up a body charged with the regular supervision of the application of their provisions. This body, which is sometimes termed a " mixed committee ", meets periodically in one or other of the countries concerned, and is composed of representatives of both, with equal powers. It is entrusted with the fixing and modification of the quotas mentioned in paragraph (*a*), and frequently also with wider tasks, such as the submission of proposals to the Governments concerned, and the preparation and revision of administrative arrangements, etc., having to do with the organisation of migration on the basis of the treaties concluded between the two States.

CONSULTATION OF GOVERNMENTS

I. — FORM OF THE INTERNATIONAL REGULATIONS

1. Adoption of a Draft Convention and of one or more Recommendations.

II. — SUPPLY OF INFORMATION AND ASSISTANCE TO MIGRANT WORKERS

2. (1) Prohibition of misleading propaganda concerning emigration and immigration.

(2) Supervision of advertisements, posters, tracts and all other forms of publicity concerning offers of employment in one country to workers of another country.

3. (1) Establishment or maintenance in each State of a free service for :

(a) supplying information to workers and their families and advising them on matters relating to emigration, immigration, and repatriation, and to employment and living conditions in the place of destination ;

(b) providing facilities for workers and their families with regard to the fulfilment of administrative formalities and other steps to be taken in connection with their departure, journey, admission into the country of destination, residence there, and return to the country of origin.

(2) (i) Responsibility of the authorities for operating such a service ; or

(ii) Encouragement of voluntary societies for this purpose, approved by the authorities and subject to their supervision ; or

(iii) A combination of the systems mentioned under (i) and (ii) above.

4. Suitable measures for facilitating the supply of information to migrants ;

(a) Fixing of an interval before any modification of the conditions on which emigration or immigration or employment of foreign workers is permitted comes into force, long enough to notify the change in good time to workers and their families preparing to emigrate.

(b) Display of the text of the principal measures of this kind or of notices relating thereto in the languages most commonly known to migrant workers, at the places of departure, transit, and arrival.

III. — RECRUITING AND PLACING OPERATIONS

5. Examination and endorsement by the competent authorities of emigration and immigration countries of applications from employers in one country for engaging and introducing into that country workers who are in another country, with a view to ensuring, in particular, that the interests of the workers are safeguarded and that the employment situation is not adversely affected.

6. (1) Bodies to be authorised to recruit workers of one country and introduce them into, and place them in employment in, another country :

(a) Public employment exchanges or other public bodies,

(b) subject to securing a licence from the authorities for this purpose :

(i) An employer or persons engaged by him and acting only on his behalf ;

(ii) Private employment agencies (persons, companies, institutions, agencies or other organisations acting as intermediaries either for securing employment for a worker or a worker for an employer).

(2) Determination by national laws or regulations of the conditions for the issue, or renewal, of licences to the bodies referred to in *(b)* above.

(3) Official supervision of the operations of these bodies.

7. Requirement that every intermediary referred to in Point 6 proceeding, on behalf of an employer in one country, to engage workers in another country be provided with a

written warrant by that employer setting forth the necessary particulars concerning the intermediary and the nature and scope of the recruiting operations that he has been asked to undertake as well as the nature of the work to be executed and the terms of payment therefor.

8. Approval by the competent authorities of maximum scales for the expenditure that may be charged to the recruited worker or to his employer on account of the expenses of recruitment, admission (including maintenance during the journey), placing, and repatriation or other operations connected therewith.

9. (1) Examination by the competent authorities of the immigration country before their departure of migrant workers who have been recruited, in order to make sure that they will be eligible for admission into the country of destination.

(2) Requirement that a competent official of the emigration country be present when any operations are carried out for the collective recruiting of workers for employment abroad.

(3) Requirement that the examinations and operations referred to in (1) and (2) be carried out as near as possible to the workers' homes.

10. Facilities to be accorded to families of migrant workers desiring to accompany or join them :

(a) Priority in respect of leaving or admission or residence permits ;

(b) Simplification of the formalities to be fulfilled and concessions with regard to payments to be made on leaving or entering or setting up residence in a country.

IV. — CONDITIONS OF EMPLOYMENT

§ 1. — *Equality of Treatment*

11. (1) Equality of treatment between national and foreign workers with regard to :

(a) conditions of work and, in particular, to all matters relating to wages ;

(b) special employment taxes or payments, whether charged to the worker or to his employer ;

(c) admission to employment of foreign workers authorised to reside in the country.

(2) Application of the principle of equality of treatment specified under (1) above to :

(i) all foreigners irrespective of nationality ; or

(ii) nationals of Members which grant reciprocity ; or

(iii) nationals of any Member having ratified the proposed Convention.

§ 2. — *Contracts of Employment*

12. In the event of the conclusion of a contract of employment between an employer, or an agent acting on his behalf, and a migrant worker before the latter has been admitted into the country of destination :

Particulars to be specified in all such contracts in addition to any other clauses :

(a) exact duration of the contract ;

(b) exact date on which, and place at which, the migrant worker is required ;

(c) method of meeting travelling expenses :

(i) for the outward journey ;

(ii) for the homeward journey at the end of the term of the contract, or prior to its expiry if the worker becomes unfit for work as a result of accident or illness ;

(iii) for members of the workers' family authorised to accompany him or join him later, provision being made for the event of his death either in the course of the journey to the place of employment or during the period of his employment ;

(d) amount of any sums spent by the employer or his agents in connection with the recruitment, admission or placing of the worker, the repayment of which they are entitled to claim ;

(e) nature and extent of housing accommodation available.

§ 3. — *Labour Inspection*

13. (1) Establishment in the labour inspectorate or any other similar administrative department of the immigration country of a special inspectorate for supervising the conditions of work of migrants whenever this is rendered necessary by their number.

(2) Desirability of systematic co-operation between such an inspectorate and voluntary societies for the assistance of migrants approved by the authorities.

V. — REPATRIATION

14. Cost of repatriation (payment of dues, transport and maintenance charges up to the final destination) of the recruited worker and of any members of his family who may be with him, if for reasons beyond his control he fails to secure the employment for which he was engaged.

Payment of these expenses by the employer or the recruiting agent or any other party legally liable.

15. Repatriation of migrant workers for reasons connected with the employment situation or their lack of means :

(a) Undertaking by the country of residence not to expel migrant workers or their families for the above reasons, unless the immigration and the emigration country have agreed to allow such repatriation.

Or alternatively :

(b) (1) Determination of a period of residence (not exceeding five years) on the territory of the immigration country after which the immigrant worker regularly settled there may not be expelled for the above reasons ;

(2) In the event of repatriation for the above reasons of migrant workers not having completed the period of residence mentioned above on the territory of the immigration country, obligation of that country to ascertain :

(i) that the migrant worker has in fact exhausted all his rights to unemployment insurance benefit ;

(ii) that when repatriated he is treated with every consideration (due notice, transport conditions, etc.) called for in the circumstances ;

(iii) that he will be paid the whole cost of his repatriation and that of his family, if any, to the final destination, or else to undertake this payment itself.

16. Return to their country of origin of migrant workers and members of their families who have retained their nationality :

Requirement that the scope of the various measures in force in the country of origin for poor relief and unemployment relief and for promoting the absorption of the unemployed into employment be extended to cover such repatriated workers by exempting them from fulfilment of conditions as to previous residence or employment in the country or locality.

VI. — BILATERAL AGREEMENTS

17. Conclusion of special agreements between the countries directly concerned regarding :

(a) Supply of information to migrant workers and exchange of information between the competent Government departments ;

(b) Repression of misleading propaganda ;

(c) Issue of certificates and identification papers which the migrant workers are required to obtain, and recognition in either country of the validity of such documents issued by the other country as well as of contracts of engagement of migrant workers concluded in the other country ;

(d) Methods of recruiting, admitting and placing workers of either of the two countries emigrating to the other ;

(e) Prevention of separation of families or of desertion of their families by migrant workers ; facilities for reuniting families or for securing that heads of families in one country carry out their legal obligations to support their dependants in the other country ;

(f) Facilities for enabling migrant workers to take any sums of money that they may require out of the country of emigration and to transfer their savings from the country of residence to the country of origin ;

(g) Determination of the procedure governing the repatriation of migrant workers and the methods of covering the cost thereof ;

(h) Determination of the guarantees under which nationals of one of the contracting States residing in the other may be recruited by undertakings situated in territories outside the latter State but placed under its sovereignty or administration.

18. Questions of procedure that may be treated in agreements between the countries directly concerned :

(a) Establishment of standard forms of application and of standard contracts to be used in engaging workers of one country with a view to their employment in the other country ;

(b) Fixing in advance of quotas of workers of one country to be admitted into the territory of the other country in any one year or season ;

(c) Delegations from the country of immigration for the purpose of recruiting or selecting workers of the emigration country on its territory, and co-operation of representatives of the country of origin in the protection of the interests of migrant workers on the territory of the country of destination ; operations of such delegations and nature of such co-operation ;

(d) Periodical meetings of a mixed committee of representatives of the emigration and immigration countries for considering the enforcement or adaptation of proposals or measures for recruiting, introducing, placing, employing, protecting, and repatriating migrant workers and their families.